

**ZONING ORDINANCE FOR THE TOWN  
OF HERTFORD, NORTH CAROLINA**

Prepared For

**THE CITIZENS OF THE TOWN OF HERTFORD**

TOWN OF HERTFORD BOARD OF COMMISSIONERS

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## ARTICLE I

### ENACTMENT, SHORT TITLE, JURISDICTION, PURPOSE

#### Section 1-1 Enactment Preamble

AN ORDINANCE ESTABLISHING COMPREHENSIVE ZONING REGULATIONS FOR THE TOWN OF HERTFORD, A MUNICIPAL CORPORATION OF THE STATE OF NORTH CAROLINA, AND ITS EXTRATERRITORIAL JURISDICTION, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF, IN ACCORDANCE WITH THE PROVISIONS OF THE NORTH CAROLINA GENERAL STATUTES, CHAPTER 160A, ARTICLE 19, AND FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH.

THEREFORE, BE IT AND THE SAME IS HEREBY ENACTED BY THE PEOPLE OF THE TOWN OF HERTFORD, NORTH CAROLINA:

#### Section 1-2 Short Title

These regulations shall be known, referred to and cited as the "Zoning Ordinance for the Town of Hertford, North Carolina."

#### Section 1-3 Jurisdiction

The provisions of the ordinance shall apply within the corporate limits of the Town of Hertford and within the extraterritorial jurisdiction established by ordinance, as provided under G.S. 160A-360, said jurisdiction being delineated on the map entitled, "Official Zoning Map, Town of Hertford." Such map shall be attested to, and bear the mark of the town clerk.

#### Section 1-4 Purpose

The Purpose of these regulations shall be to accomplish a coordinated, balanced, and harmonious development of the land within the corporate limits of the Town of Hertford and in the extraterritorial area, in a manner which will best promote the health, safety, morals, convenience, order, prosperity and general welfare of the people, as well as to provide for efficiency and economy in the process of development; to make adequate provisions for traffic; to secure safety from fire, panic, and other hazards; to provide for light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to promote desirable living conditions and the sustained stability of neighborhoods; to protect the property against blight and depreciation; to protect and enhance the visual character and quality of the built environment.

## ARTICLE II

### ESTABLISHMENT OF DISTRICTS

#### Section 2-1 Zoning Districts

For the purpose of this ordinance, the Town of Hertford, North Carolina and its extraterritorial area is hereby divided into the following zoning districts:

- 2-1.1 RA, Residential Agricultural - The purpose of this district is to create an area in which residential and agricultural uses can be compatibility mixed where water and sewer are not available or where development of low density is desired. Single family residences and agricultural uses are allowed with a minimum lot area of 20,000 square feet.
- 2-1.2 R10, Single Family Residential - The purpose of this district is to maintain a minimum lot size of ten thousand (10,000) square feet and to allow for single family dwellings and other such uses which would not be detrimental in protecting the property value and the established character of this district from the depreciating effects of more intensive uses.
- 2-1.3 R-8, Residential District - The purpose of this district is to provide for a compatible mixture of single-family, two-family, and multi-family dwellings on lots with a minimum area of eight thousand (8,000) square feet in neighborhoods of medium density while using adequate controls to insure such development will not be detrimental to the neighborhood environment.
- 2-1.4 R-6, Residential District - The purpose of this district is to provide for a compatible mixture of single-family, two-family, and multi-family dwellings (including mobile homes) on lots with a minimum area of six thousand (6,000) square feet in neighborhoods of characteristically high density while using adequate controls to regulate open space and layout to insure enhanced neighborhood character and livability.
- 2-1.5 TR, Transitional Residential District - The purpose of the district is to provide for a compatible mixture of residential uses and such other uses as would be compatible in areas where transitional residential use is changing to more intensive uses, and where such areas may logically be expected to become less rather than more residentially oriented.
- 2-1.6 O/I, Office, Institutional District - The purpose of this district is to provide for facilities to house general offices and institutions requiring extensive space for parking and expansion in an area highly accessible and visible to those demanding their services.
- 2-1.7 C1, Commercial, Core Area - The purpose of this district is to provide for, enhance and protect the shopping and office facilities, and focal nature characteristically associated with the central business district.
- 2-1.8 C2, Commercial, General - The purpose of this district is to provide for the further development of commercial activities and to encourage the proper grouping and location of uses requiring ready accessibility by the public and space for expansion, parking, and storage so as to minimize any negative impacts upon adjacent or proximate non-compatible uses.

- 2-1.9 C3, Commercial, Neighborhood - The purpose of the district is to provide for the shopping and service facilities utilized regularly by residents of neighboring residential districts, while utilizing such controls as necessary to protect the residential character of surrounding districts.
- 2-1.10 M1, Manufacturing - The purpose of this district is to create and protect areas which may be utilized by those industrial or manufacturing uses which do not create excessive noise, odor, smoke or dust; and which do not possess other objectionable characteristics which might be detrimental to surrounding neighborhoods or the town as a whole.
- 2-1.11 C-4, Commercial, Light Industrial - The purpose of this district is to provide for a mix of commercial and light industrial uses and to encourage the proper grouping and location of uses requiring ready accessibility by the public and space for expansion, parking, and storage so as to minimize any negative impacts upon adjacent or proximate noncompatible uses
- 2-1.12 C-5, Commercial, Riverfront - The purpose of this district is to provide for commercial facilities adjacent to or in close proximity to rivers and waterways and require extensive space for uses relating to the water in a manner that will minimize any negative impact upon adjacent waterfront properties and water quality.

#### Section 2-2 Official Zoning Map

For the purpose of this ordinance, the Town of Hertford's planning jurisdiction is hereby divided in zones or districts as shown on the "Official Zoning Map, Town of Hertford, North Carolina," which together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this ordinance.

The Official Zoning Map shall be identified by the signature of the Mayor and attested by the Town Clerk and bear the seal of the town under the following words:

"This it to certify that this is the Official  
Zoning Map referred to in Article II of the  
Zoning Ordinance of Hertford, North Carolina,"  
together with the date of adoption of this ordinance.

The Official Zoning Map, which shall be located in the Town Hall, shall be the final authority as to the current zoning status of land and water areas, buildings, and structures within the planning jurisdiction of the Town of Hertford.

### Section 2-3 Zoning Map Changes

If, in accordance with Article IX of this ordinance, changes are made in the zoning district boundaries or other matter shown on the map, such changes shall be made together with an entry on the map as follows:

“On \_\_\_\_\_, by official action of the \_\_\_\_\_,  
the following changes were made in the Official  
Zoning Map:

The entry shall be signed by the Mayor and attested by the Town Clerk. No amendment to this ordinance which involves a matter portrayed on the map shall become effective until after such change and entry have been made on said map. The Town Commissioners shall give official notice of the zoning change to the ZONING ADMINISTRATOR within twenty-four (24) hours after passage of said change.

### Section 2-4 Replacement of Official Zoning Map

In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret, the Town Commissioners may, by ordinance, adopt a new official zoning map which shall be the same in every detail, as the map it supersedes. The new map shall bear the signatures of the Mayor and Town Clerk and shall bear the seal of the town under the following words:

“This is to certify that this Official Zoning Map  
supersedes and replaces the Official Zoning Map  
adopted on \_\_\_\_\_,” together with the date  
of adoption of the new map.”

### Section 2-5 Responsibility for Maintenance of the Official Zoning Map

The Zoning Administrator shall be responsible for the maintenance of the official zoning map. Upon notification by the Town Commissioners that a zoning change has been made, the Zoning Administrator shall make the necessary changes on the official zoning map within forty-eight (48) hours following notification.

### Section 2-6 District Boundaries

The boundaries of these districts are hereby established as shown on a map entitled “Official Zoning Map, Town of Hertford.” Said map and all explanatory matter thereon accompanies and is hereby made a part of this ordinance; it shall be properly attested and on file in the office of the town clerk.

## Section 2-7 Rules Governing Boundaries

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following rules shall apply:

- 2-7.1 Boundaries indicated as approximately following the center lines of streets, highways, alleys, streams, rivers or other bodies of water, shall be construed to follow such center lines.
- 2-7.2 Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- 2-7.3 Boundaries indicated as approximately following city limit lines shall be construed as following such city limit lines.
- 2-7.4 Where district boundaries are so indicated that they are approximately parallel to the center line of streets, highways, or railroads, or rights-of-way of same, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the zoning map. If no distance is given, such dimension shall be determined by the use of the scale shown on said zoning map.
- 2-7.5 Where physical features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by Subsections 2-7.1 through 2-7.4 above, the Board of Adjustment shall interpret the district boundaries.

## Section 2-8 Use Regulation

For the purpose of this ordinance, permitted and conditional uses and required parking provisions for such uses shall be determined for the various zoning districts using the following table entitled, "Use District."

Those listed as conditional in any district may only be permitted upon the approval of the Board of Adjustment. Procedures guiding petitioning, approval and disapproval of conditional use permits are contained in Article IV.

## Section 2-9, District Dimensional Requirements

District	Min. Lot Area (Square Feet)			Min. Lot Width** (Linear Feet)			Min. Front Setback (Linear Feet)			Min. Side Setback*** (Linear Feet)			Min. Rear Setback (Linear Feet)			Max. Height (Linear Feet)	Max. Lot Coverage	
	1st Unit	2nd Unit	Ea. Add Unit	1st Unit	2nd Unit	Ea. Add Unit	1st Unit	2nd Unit	Ea. Add Unit	1st Unit	2nd Unit	Ea. Add Unit	1st Unit	2nd Unit	Ea. Add. Unit			
R/A	20,000	NA	NA	100	NA	NA	30			15	NA	NA	25	NA	NA	35	40%	
R-10	10,000	NA	NA	80	NA	NA	30			10	NA	NA	20	NA	NA			
R-8	8,000	3,000	3,000	75	20	10	25			10	4	2	20	4	2			
R-6	6,000	3,000	3,000	50	20	10	20			8	4	2	15	4	2			
TR	6,000	2,000	2,000	50	10	5	20			10	4	2	15	4	2			
C-1	NA			NA			NA			NA			NA				60*	NA
C-2	10,000			100			40			20			20					30%
C-3	10,000			80			30			15			15					
C-4	20,000			100			40			20			20					
C-5	20,000			100			40			20			25					
O/I	20,000			100			30			15			25			35	40%	
M-1	N/A			100			40			25' where abutting resi. use, 15' otherwise			25' where abutting resi. use, 15' otherwise					

\* The permitted height of structures in the C5 district may be increased by one foot for each two feet of additional front, side, and rear setbacks up to a maximum height of 80 feet.

\*\* Measured at the front yard setback line.

\*\*\* On a corner lot, setback requirements on the sides of the lot facing the street shall at least equal the minimum front yard setback in that district. Where two or more principal structures are located on an undivided lot, the minimum distance between the structures is determined by doubling the side yard requirement for that district.

+ Requirements relating to second units are in addition to the Requirements for the first unit. Requirements for each additional unit are in addition to requirements for the first unit plus the requirements for the second unit. Multiple units listed as conditional uses are subject to the provisions of Article IV of this ordinance.

# USE DISTRICT

	RA	R10	R8	R6	TR	C1	C2	C3	C4	C5	O/I	M1	PARKING CODE
Antique Shops					P	P	P	P					F
Art Galleries					C	P	P						F
Automobile Sales						C	P						
Automobile Service Stations						P	P					C	F
Automobile Wash							P						
Automobile Parking Lots						P	P	P			P	P	
Automobile Repair Shops							P	C				P	H
Bakeries, Retail						P	P						F
Banks, Savings & Loan Association						P	P		P				F
Bar, Tavern						C	C						F
Billiard or Pool Halls						P	P						F
Boat & Boat Trailer Sales & Services							P		P			P	F
Bowling Alleys, Skating Rinks							P						G
Miniature Golf Course & similar commercials- recreation uses.													
Bed & Breakfast		C	C	C	C	P							B
Buildings Supplies Sales & Installation							P					P	F
Bulk Storage of Oil, Liquid Petroleum, Gasoline, Natural Gas, or Other Flammable Materials							C					C	None
Cab Stands						P	P						One for each cab using stand.
Cabinet, Woodworking or Upholstery Shops							P					P	
Cemeteries	P	C	C	C									H
Child or Adult Day Care					P		P	C					F
Churches & Customary Accessory Uses	C	C	C	C	C			C					D
Clothing Stores						P	P		P				F
Clubs, Lodges & Fraternal Organizations	C				C		C						F
Commercial Services					C	P	P	P	P				F
Contractors/Construction Business									P				
Credit Union						P	P	P	P				F
Day Care Center/Nursery/Preschool				P		P	C						F
Department Stores						P	P		P				F
Drug Stores						P	P	P	P				F
Dwellings, Multi-Family			C	P	P								A
Dwellings, Single-Family	P	P	P	P	P	C	C	C			C		A
Dwellings, Two-Family			P	P	P	C	C	C			C		A
Dwellings, Mobile Homes				P									A
Electrical Appliance Sales & Service						P	P		P				F
Electrical Equipment & Repair Shops							P		P			P	F
Entertainment Establishments	C						P						J
Equipment Rental & Leasing													
(Inside Storage)						P	P	P	P		P	P	G
(Outside Storage)						C	C	C	P			C	G
Family Child Care Home	C		C	C	P		P	C					0
Farm Equipment Sales & Repair							P					P	H
Feed & Grain Sales & Storage							P					P	H

P=Permitted by right

C=Conditional Use Permitted Upon Approval of Board of Adjustments

Required Parking Code: Article VI

Blank or Unlisted Activity=Prohibited Use

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# USE DISTRICT

	RA	R10	R8	R6	TR	C1	C2	C3	C4	C5	O/I	M1	PARKING CODE
Fire Stations	C	C	C	C	C	P	P	C			C	C	G
Florists and Gift Shops					C	P	P	P	P				F
Food and Grocery Stores						P	P		P				F
Funeral Homes							P				P		D
Furniture Sales						P	P		P				G
Games & Wildlife Farms	P												None
Garage							P					P	H
Golf Courses & Country Clubs	P												None
Greenhouse & Plant Nurseries	P	C					P		P				H
Group Development (residential)			C	C	C								
Group Development (commercial)							C						
Group Development (office, institutional)											C		
Hardware Sales						P	P	P	P				F
Health & Athletic Club Facilities						P	P	P	P				G
Hobby & Crafts Goods Shop					C	P	P		P				F
Home Occupations	C	C	C	C	C								C
Hospitals, Clinics & Health Centers									P			P	B
Hotels & Motels						P	P		P	P			B
Jewelry Sales & Watch Repair Services						P	P		P				F
Junk & Salvage Yards												C	None
Kennels							P						None
Libraries			C	C	C	P					P		F
Lumber & Building Supply Sales						P			P			P	F
Machine & Welding Shops						C						P	G
Coin Operated Laundries, Laundromats,						P	P	C					F
Dry Cleaning or Pick-up Points													
Comm. Laundries, Laundromats, Dry Cleaning						P	P						
Lumber Yards, Lumber Mills												P	
Manufacturing & Processing of:													
Food & Kindred Products									P			P	G
Lumber & Wood Products									P			P	G
Paper Products									P			P	G
Plastic Products									P			P	G
Printing, Publishing, & Allied Industries									P			P	G
Stone, Clay, Glass & Concrete									P			P	G
Fabricated Metal Products									P			P	G
Electrical Equipment & Supplies									P			P	G
Professional, Scientific, Photographic &									P			P	G
Optical Goods													
Boats, Yachts, Ships & Related Products									P				
Furniture & Fixture Products									P				
Chemical & Allied Products									P				
Textiles									P			P	G
Marinas							C			P		C	
Mobile Home Sales							P						E
Museums					C	P					P		F
Nursing & Rest Homes							P		P		P		B
Offices for Business, Professional Services					C	P	P		P	P	P		F

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# USE DISTRICT

														PARKING
USE	RA	R10	R8	R6	TR	C1	C2	C3	C4	C5	O/I	M1	CODE	
Office Equipment Sales						P	P		P				F	
Paint Sales						P	P		P				F	
Parking Required for any Permitted Use*	P	P	P	P	P	P	P	P	P		P	P		
Pawn Shop						P	P	P					F	
Personal Services (Barber, Beauty, etc.)					C	P	P	P	P				F	
Pet Shops							P	P	P				F	
Photography Studios					C	P	P		P				F	
Planned Unit Development	C	C	C	C	C								A	
Printing & Copying Services						P	P		P				G	
Private Recreation Camps	P												None	
Public Safety & Utility Facilities	C	C	C	C	C	C	P	C	C	C	C	C	G	
Public Parks & Recreation Facilities	P	P	P	P	P								None	
Public Buildings & Uses, (not primarily recreational uses)					C		C		P		C	C	G	
Research & Development Laboratories							P		P		P	P	G	
Restaurants, Drive-in							P		P				F	
Restaurants:														
Indoor (Includes grills & Cafes)					C	P	P		P	P	P		D	
Short Order/Take Out					C	P	P	C	P	P	P		D	
Retail, Commercial					C	P	P	P	P	P	P		F	
Rooming, Tourists & Boarding Houses			C	P									B	
Sanitary Landfills/Incinerators	C												None	
Schools:														
Nurseries, Kindergartens	C	C	C	C	C								E	
Elementary	C	C	C	C	C								E	
Jr., Sr., High Schools	C	C											E	
Vocational, Technical	C										C		E	
Specialty	C				C	P	P	P			P		I	
Shoe Repair						P	P						F	
Signs, Prinicpal Use-on premises					P	P	P	P	P		P	P		
Signs, Separate Use - off premises (billboards)							P							
Storage warehouses and/or Distribution of														
Products Relating to Permitted Uses									P					
Theaters						P	P		P				D	
Tire Sales & Recapping							P		P			C	F	
Tobacco, Cotton & Other Storage Warehouses							P					P	H	
Trucking Terminals							P					P	H	
Variety, Convenience Store							P	P					F	

P=Permitted by right

C=Conditional Use Permitted Upon Approval of Board of Adjustments

Required Parking Code: Article VI

Blank or Unlisted Activity=Prohibited Use

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ARTICLE III  
GENERAL PROVISIONS

Section 3-1 Territorial Limits

- 3-1.1 The Provisions of this ordinance shall be applicable not only within the corporate limits of the Town of Hertford but also within the extraterritorial jurisdiction of the Town of Hertford as shown on the "Official Zoning Map, Town of Hertford," in accordance with North Carolina General Statutes 160A-360.
- 3-1.2 This ordinance shall in no way regulate, restrict, prohibit, or otherwise alter any bona fide farm and its related uses within the territory beyond the corporate limits as defined in the Official Zoning Map, Town of Hertford, except that any use of such property for non-farm purposes shall be subject to such regulations.

Section 3-2 Application

The regulations set fourth in the ordinance affect all land, every building, and every use of land and/or building, and shall apply as follows:

- 3-2.1 New Uses of construction. After the effective date of this ordinance, all new construction or use of land shall conform with the use and dimensional requirements for the district in which it is to be located.
- 3-2.2 Conforming Uses or Structures. After the effective date of this ordinance, land or structures, or uses of land or structures which then conform to the regulations for the district in which it is located may be continued, provided that any structural alteration or change in use shall conform with the provisions of this ordinance.
- 3-2.3 Nonconforming Uses or Structures. After the effective date of this ordinance, land or structures, or uses of land or structures which would be prohibited under the regulations for the district in which it is located shall be considered nonconforming. Nonconforming structures or uses may be continued provided they conform to the provisions of Article VI of this ordinance.

Section 3-3 One Principal Use Per Lot

No lot shall be occupied by more than one principal building use. No part of a yard, court or other open space provided about any building or structure for the purpose of complying with the provisions of this ordinance shall be included as a part of a yard or other open space required under this ordinance for another building or structure. A residence shall always constitute a principal use.

Deleted: ¶

Section 3-4 Reduction of Yard and Lot Areas Prohibited

No yard or lot existing at the time of passage of this ordinance shall be reduced in size or area below the minimum requirements set fourth herein except as provided for in Section 3-17. Yards or lots created after the effective date of this ordinance shall meet at least minimum requirement for the district within which it is located as established by this ordinance. Shrubbery, driveways, retaining walls, fences, curb, ornamental objects and planted buffer strips shall not be construed to be encroachments upon yards.

Section 3-5 Location of Accessory Uses or Buildings (Amend 5-26-81)

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Accessory uses and buildings shall comply with the 'front' setback requirements of the zoning district in which they occur. No separate accessory building may be erected within ten (10) feet of any other building. In the case of a corner lot, and accessory use or building shall be set back from the right-of-way of the abutting side street a distance equal to the front yard setback established for principal uses in this district. No accessory building may be nearer than five (5) feet from any side or rear yard line, (unless located on previous foundation and approved by the zoning administrator.) All accessory buildings limited to one story.

Special requirements for certain accessory uses or buildings:

- 1) Swimming pools shall be protected by a four (4) foot high fence with latching gates to keep children and animals from having unsupervised access.
- 2) Stables and Kennels (private, non-commercial) shall not be erected closer than one hundred (100) feet to a pre-existing dwelling, and shall be allowed in residential areas as accessory uses only when the scale of such activity is clearly and demonstrably incidental to the residential use.

Section 3-6 Lots with Multiple Frontages

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In the case of a corner lot having frontage on two (2) or more streets, all buildings shall be set back from each such street a distance at least equal to the minimum front setback requirement for the district. If a building is constructed on a lot having frontage on two (2) roads, but not at an intersection, a setback from each road will be provided at least equal to the front setback requirement for the district in which the lot is located.

Section 3-7 Street Access

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No structure shall be erected on a lot which does not have at least fifty (50) feet of frontage on a public street, except in the case of cull-de-sac where thirty-five feet shall be required. All structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

Section 3-8 Visibility at Intersections

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On a corner lot, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of two and one-half (2 1/2) feet and ten (10) feet in a triangular area formed by a diagonal line between two (2) points on the right-of-way lines of two (2) streets or a street and a railroad, thirty (30) feet from where the two (2) right-of-way lines intersect.

Section 3-9 Required Buffers

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In order to lessen the impact of incompatible land uses, a buffer strip, at least fifteen (15) feet in width, with a visual (vegetative) buffer six (6) feet or more in height, shall be provided and maintained to

separate those uses which are deemed to have a negative effect on residential areas. When new commercial or manufacturing construction will abut an existing residential district or use, a buffer strip with a visual buffer shall be provided and maintained by the commercial or manufacturing use. In addition, when new residential construction will abut an existing commercial or manufacturing use, or abuts a limited access highway or railroad, the buffer strip and visual buffer shall be provided by the residential developer. This buffer strip shall be part of the lot(s) and shall be maintained by the owner (s) or homeowners association in the case of commonly owned land.

Section 3-10 Walls and Fences

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The setback requirements of these regulations shall not prohibit any necessary retaining wall or prohibit any planted buffer strip, fence, or wall. However, no fence or wall shall exceed a height of four (4) feet in any front or side yard from the front building line to the front of the lot unless otherwise specified elsewhere in this ordinance, nor shall any fence or wall exceed a height of six (6) feet in any rear or side yard from the front building line to the rear of the lot within a residential zone. In any non-residential zone, no fence or wall shall exceed a height of six (6) feet in any front or side yard from the front building line to the front of the lot unless otherwise specified elsewhere in this ordinance, nor shall any fence or wall exceed a height of eight (8) feet in any rear or side yard from the front building line to the rear of the lot.

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In C-2 and M-1 zones, an 8' fence is allowed in the front, side, and rear yards except in C-2 zones that abut Hwy. 17 By-pass and M-1 zones that abut Grubb Street

Section 3-11 Exceptions to Height Regulations

The height regulations of this ordinance shall not apply to a church spire, belfry, cupola, or dome; an ornamental tower, an observation tower; a transmission tower; a chimney or smoke stack; a conveyor; a flag pole, a radio or television tower, mast or aerial; a parapet wall not extending more than three (3) feet above the roof line of the building; and necessary mechanical appurtenances.

The height regulations of this ordinance shall extend to 60 feet max. for commercial structures in the M-1 zone provided they have state approved fire protection sprinkler systems installed on those structures that exceed 35 feet in height.

Section 3-12 No Structures In Public right-of-way

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No building, fence, or other structure or part thereof, shall be erected or installed in any public road, street, lane, or alley to other public right-of-way.

Section 3-13 Land Covenants

Unless restrictions established by covenants with the land are prohibited by or are contrary to the provisions of this ordinance, nothing herein contained shall be construed to render such covenants inoperative.

Section 3-14 Uses Prohibited

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If either a use or a class of use is not specifically indicated as being permitted in a district, either as a matter of right or as a conditional use, then such use or class of use shall be prohibited in such district.

Section 3-15 Home Occupations

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A home occupation as permitted and defined in the ordinance shall be governed by the following requirements:

- 3-15.1 no person other than members of the family residing on the premises shall be engaged in the occupation;
- 3-15.2 the occupation shall not be visible from the street;
- 3-15.3 the use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and no more than twenty-five percent (25%) of the floor area of the dwelling shall be used in the conduct of the home occupation,
- 3-15.4 there shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one (1) sign, not exceeding three (3) square feet, non-illuminated, and mounted flat against the wall of the principal building;
- 3-15.5 no home occupation shall be conducted in a accessory building;
- 3-15.6 no traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front or side yard;
- 3-15.7 no equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot if the occupation is conducted in a single family residence, or outside the dwelling unit if conducted in other than a single family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

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### Section 3-16 Lot of Record

When the owner of a lot at the time of the adoption of this ordinance or an amendment which made the lot nonconforming or his successors in title thereto does not own sufficient land to enable him to conform to the dimensional requirements of this ordinance, such lot may be used as a building site; provided that the requirements of Section 6-2 can be met.

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### Section 3-17 Variation of Yard Requirements

Except as set forth in Section 3-16, above, where there exists at the time of passage of this ordinance a non-conforming lot of record or non-conforming structure whose non-conformance is tied either to the amount of frontage required in the district or the side or rear yard requirements of that district, the Zoning Administrator shall be authorized to reduce the side yard or rear yard requirements a maximum of twenty (20) percent. In no case shall a side yard setback be less than six (6) feet wide nor a rear yard setback be less the twelve (12) feet wide. Once any one requirement has been reduced by the decision of the Zoning Administrator, said lot or structure shall forfeit its rights as a non-conformance under this section.

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### Section 3-18 Junk Yards Prohibited in Residential Zones

No junk yard or salvage yard as defined by this ordinance, shall be allowed within any residential district within the zoning jurisdiction of the Town of Hertford.

### Section 3-19 Bed and Breakfast Operations

A single family home or guest house with a room or rooms with out cooking facilities that are rented, provided:

3-19.1 There are no more than 12 guest rooms that offer bed and breakfast accommodations to no more than 23 persons per night for a period of less than one week.

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3-19.2 Smoke alarms to be installed in all rooms.

3-19.3 The residence must receive the approval of the Hertford Fire Inspector and comply with the recommendations as to fire safety. This may include provisions of fire escapes, extinguishers, alarms, and other devices.

3-19.4 Comply with the local state Fire Building Codes

3-19.5 Comply with the rules of State Statue NCGS 130A-247 through 130A-250.

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- 3-19.6 Notwithstanding Section 7-1 of this code a single sign may be permitted and it shall not exceed 18 sq. ft. in area nor 4 ft. in height. The sign not be internally illuminated and shall be no closer than 10 ft. to any property line.
- 3-19.7 Additional provisions and safeguards may be required by the Board of Adjustment to preserve the residential character of the area. Such provisions may include, but are not limited to:
- a) Screening and buffering to protect adjoining residences.
  - b) Number of employees
  - c) Hours of operation
  1. Lighting
- 3-19.8 Off-Street Parking: In addition to the required two parking spaces for the residence, operation shall provide one parking space for each room designated for occupancy and ten (10) percent of that number for employees and services.

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Section 3-20 Manufactured Home Park Regulations

3-20.1 General Regulations

1. Location and Maintenance of Parks

No person may maintain, operate or occupy a manufactured home park within the zoning jurisdiction of the town unless the park meets the requirements of this ordinance. If two (2) or more manufactured homes are located on the same undivided lot or tract of land, they must meet the requirements of this section.

2. Application for Park Permit

Application for a permit to develop, operate, alter or maintain a Manufactured Home Park shall be made to the Zoning Administrator under the provisions of Article VIII. The application for a permit shall include the following:

a. A plan to scale for the general layout of the park containing the information required below:

1. The area to be used for the park showing property lines and adjacent zoning and land use;
2. Driveways, entrances, exits, roadways and walkways;
3. Location of mobile home spaces and buildings;
4. Location and quantity of proposed sanitary conveniences, including proposed toilets, washrooms, laundries, recreation and utility areas and utility rooms;
5. Method and plan of sewage disposal;
6. Location and quantity of refuse containers;
7. Plan of water supply; and
8. Plan of electric lighting.

b. Plans and specifications for any building to be constructed on the site.

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- c. Further information may be required by the Zoning Administrator or County Health Department to enable them to determine if the proposed park will comply with the regulations of this ordinance and other applicable laws.

3. Sanitary Facilities, Water Supply, Sewerage, Refuse Disposal and Utilities

In every Park and related permanent building, all installations of plumbing and electrical wiring, and all gas and oil appliances shall comply with the provisions of the building, plumbing and electrical, heating and gas ordinances and codes and any other applicable regulations of the town. In addition, the following requirements must be met:

- a. Each manufactured home space shall be provided with individual plumbing and electrical connections;
- b. Water Supply - Every park shall be connected to the Town water system. The water supply for each home shall be obtained only from approved connections located on each manufactured home space or inside each manufactured home.
- c. Sewage Disposal - Every Park shall be connected to the Town sewer system. All sewage wastes from each Park including wastes from toilets, and toilet rooms, showers, lavatories and wash basins and wastes from refrigerator drains, washing machines, sinks or faucets in homes or on home spaces shall be piped into the Park sewage disposal system. All sewage wastes from every trailer equipped with its own toilet facilities shall be piped into the Park sewage disposal system.
- d. Refuse Disposal - All garbage and refuse in every Park shall be stored in suitable receptacles in accordance with Town and County Health Department requirements.

4. Registration

It shall be the duty of the operator of the Park to keep an accurate register containing a record of all manufactured homes or trailers, owners, and occupants of the Park. The register shall contain the following information:

- a. Name and address of owner and each occupant;
- b. License number and state of issue of each licensed vehicle;
- c. Space number in which the manufactured home or trailer is parked;
- d. Date of entering Park;
- e. Date of leaving Park.

### 3-20.2 Specifications for Manufactured Home Parks

1. Every manufactured home park shall be at least one (1) acre in area.
2. The amount of land for each individual home space shall be determined by the Zoning Administrator after an investigation of soil conditions, the proposed method of sewage disposal, and proposed water system. However, in no case shall the size of a home space be less than six thousand (6,000) square feet.
3. Each home space shall be at least fifty (50) feet wide and clearly marked. There shall be at least thirty (30) feet clearance between homes including homes parked end to end. No home shall be located closer than thirty (30) feet to any permanent structure (other than those defined in 11-4.1) within the park, within thirty (30) feet of any exterior boundary line of the park and no closer than twenty (20) feet to the edge of any interior street.
4. All home spaces shall abut upon an interior drive with a right-of-way of at least fifty (50) feet and a paved surface of no less than twenty (20) feet in width, which shall have unobstructed access to a public street or highway. It is the intent of this section that individual home spaces shall not have unobstructed access to public streets or highways except through an interior drive.
5. Dead end drives shall not exceed one thousand (1,000) feet in length. Any interior street designed to be permanently closed shall have a turnaround at the closed end.
6. Drives shall intersect as nearly as possible at right angles, and no drive shall intersect at less than seventy-five (75) degrees. Where a drive intersects a public street or highway, the design standards of the North Carolina Department of Transportation shall apply.
7. Suitable vehicular access for fire fighting and emergency; equipment, delivery of fuel, removal of refuse, parking and removal of homes and for other necessary services shall be provided.
8. Each park shall have one (1) or more recreation areas with a minimum size of twenty-five hundred (2,500) square feet or 200 square feet for each home space within the park, whichever is greater. Recreation areas shall be located to be free of traffic hazards and should, where topography permits, be centrally located and easily accessible to all park residents.
9. Parking space sufficient to accommodate at least two (2) automobiles shall be located on each home space. These parking spaces shall be stabilized with gravel or paved.
10. No park shall be located on ground that is subject to flooding. The park shall be graded so as to prevent any water from ponding or accumulating on the premises. All ditch banks shall be sloped and seeded to prevent erosion.
11. The park shall have a visual buffer such as shrubbery or fencing not less than six (6) feet in height between the park and any adjacent residential uses other than manufactured homes.
12. The area of the manufactured home space shall be improved to provide an adequate foundation for the placement of the manufactured home as required by the N.C. Building Code.

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13. Each home shall be securely anchored in accordance with the N.C. Building Code Standards.
14. Each home space shall be equipped with plumbing and electrical connections and shall be provided with electrical current in sufficient amount to safely meet the maximum anticipated requirements of a home.
15. Management - In each park, the permittee or duly authorized attendant or caretaker shall be in charge at all times to keep the park, its facilities, and equipment in a clean, orderly, safe and sanitary condition.
16. All mobile homes will be skirted with a generally acceptable skirting product. The skirting shall be maintained and kept in good repair.

### 3-20.3 Existing Non-Conforming Manufactured Home Parks

Each existing Manufactured Home Park within the jurisdiction of the Town of Hertford shall be brought into compliance with the following standards within five (5) years from the date of passage of this ordinance unless otherwise specified.

1. All individual manufactured homes and manufactured home parks shall be connected to the Town of Hertford water and sewer system.
2. The right-of-way of existing interior drives shall be a minimum of fifty (50) feet with twenty (20) feet of paved surface provided this does not reduce the lot sizes below 6,000 sq. ft.
3. Two parking spaces shall be provided in accordance with B.9. above.
4. Skirting in accordance with B-16 shall be installed within twelve (12) months of adoption of this ordinance.

Section 3-21 Manufactured/Mobile Home Units

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## PERQUIMANS COUNTY

### AN ORDINANCE TO PROVIDE FOR ALLOWABLE MANUFACTURED/MOBILE HOME UNITS

#### COUNTY BOARD OF COMMISSIONERS

Leo A. Higgins, Chairman

Mack E. Nixon, Vice Chairman  
Charles T. Skinner, Jr

Archie Miller  
M. Shirley Yates

COUNTY PLANNING BOARD

Ed Nixon, Chairman

Johnny Corprew, Vice Chairman

Eddie Barber

N. Paul Gregory, Jr., County Manager  
John V. Matthews, Jr., County Attorney

**PERQUIMANS COUNTY**

**AN ORDINANCE TO PROVIDE FOR  
ALLOWABLE MANUFACTURED/MOBILE HOME UNITS**

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**Perquimans County**  
**AN ORDINANCE TO PROVIDE FOR**  
**ALLOWABLE MANUFACTURED/MOBILE UNITS**

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**ARTICLE I: INTRODUCTORY PROVISIONS**

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**PURPOSE**

The purpose of these regulations is to regulate allowable manufactured homes and mobile homes within the jurisdiction of Perquimans County in order to promote the public health, safety and general welfare of the citizens of Perquimans County.

**AUTHORITY**

The Ordinance is adopted under the authority of Chapter 153A-121 of the General Statues of North Carolina.

**JURISDICTION**

These regulations shall govern each and every manufactured home and mobile home that is brought into Perquimans County or moved from one location to another within Perquimans County, as provided in G.S. 153A-121, Article 6. The Ordinance shall regulate all manufactured homes and mobile homes lying within Perquimans County except those lying within the jurisdiction of a municipality.

## ARTICLE II: DEFINITIONS

---

When used in the ordinance, the following words and phrases shall have their meaning given in this section. Terms not herein defined shall have their customary definitions where not inconsistent with the context. The term shall is mandatory and words used in the singular include the plural and those in the present include future tense.

1. Mobile Home: Mobile home shall mean a structure transportable in one or more sections, which in the traveling mode is eight feet or more in width or is 40 feet or more in length or when erected on a site, contains 320 or more square feet or floor space, is designed to be used as a year-round dwelling and was built prior to the enactment of the National Manufactured Housing Construction and Safety Standards Act of 1974 which became effective June 15, 1976.

2. Manufactured Home: Manufactured home shall mean a single family dwelling fabricated in an off site and manufacturing facility for installing or assembling on the building site bearing a seal certifying that it was built in compliance with the National Manufactured Housing and Construction and Safety Standards Act of 1974 which became effective June 15, 1976.

3. "HUD" Label: "HUD" label shall mean a label attached to an individual manufactured home unit certifying that the unit was built in compliance with the National Manufactured Housing and Construction and Safety Standards. The label is approximately 2" x 4", has a three letter prefix which identifies the primary inspection agency and contains a six (6) digit number. A sample label reads as follows:

As evidenced by this label NO. XXXXXXXXXX, the manufacturer certifies to the best of the manufacturer's knowledge and belief that this manufactured home has been inspected in accordance with the requirements of the Department of Housing and Urban Development and is constructed in conformance with the Federal Manufactured Home Construction and Safety Standards in effect on the date of Manufacture. See data plate.

4. Independent Inspection Agencies: Agencies that were approved and licensed to label mobile homes certifying that the unit was built in compliance with the American National Standard Institute, USA Standard A119.1. The following "independent inspection agencies" were approved to label mobile homes under North Carolina law for a period beginning September 1, 1971 and ending June 14, 1976:

Underwriter's Laboratories, Inc.

Pittsburgh Testing Laboratory

United States Testing Company  
(Nationwide Consumer Testing Institute Label)

Glendon R. Mayo, P.C.

These labels were usually placed beside the main entrance.

These agencies performed inspection on some manufactures units, at the request of the manufacturer, beginning July 1, 1970. Units inspected between July 1, 1970 and September 1, 1971 would also have a label beside the main entrance.

5. **Permanent Set Up:** Any mobile home or manufactured home which is set-up in accordance with the North Carolina Regulations for Mobile/Manufactured Homes, 1989 addition as amended.

### **ARTICLE III: PERMITTED STRUCTURES**

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1. Mobile homes and manufactured homes that are presently located within Perquimans County may be moved from one location to another within Perquimans County for the purpose of permanent set-up, that is, a HUD label or an Independent Inspection Agency label as defined in Article II, sections 3 and 4. In addition, to qualify for relocation, the mobile home or manufactured home must be listed in the Perquimans County Tax Assessor's Office as of the date of ratification of this ordinance.

2. Mobile homes constructed prior to January 1, 1977 cannot be brought into Perquimans County to be used as a residence, except those with a "HUD" label attached.

3. Manufactured homes must have an attached "HUD" label to be brought into Perquimans County for the purpose of permanent set up.

### **ARTICLE IV: MISCELLANEOUS PROVISIONS**

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#### **Amendments**

The Perquimans County Board of Commissioners may from time-to-time amend the terms of this Ordinance (but no amendment shall become effective unless it shall have been proposed by or shall have been submitted to the Perquimans County Planning Board for review and recommendation. The Planning Board shall have thirty (30) days from the time the proposed amendment is submitted to it within which to submit its report to the Perquimans County Board of Commissioners. If the Perquimans County Planning Board fails to submit a report within the specified time, it shall be deemed to have recommended approval of the amendment.

No amendment shall be adopted by the Perquimans County Board of Commissioners until a public hearing has been held on the amendment. Notice of the hearing shall be published in a newspaper of general circulation in Perquimans County at least once a week for two (2) consecutive calendar weeks prior to the hearing. The initial notice shall appear not more than twenty-five (25) days nor less than ten (10) days prior to the hearing. In computing the ten (10) and twenty-five (25) day periods, the date of publication is not to be continued, but the date of the hearing is.

#### **SEPARABILITY**

Should any section of provision of this Ordinance be declared by the courts to be invalid for any reason, such declaration shall not affect the ordinance as a whole, or any part thereof other than the part so declared to be invalid.

#### **CONFLICT**

When the requirements of this Ordinance conflict with the requirements of other lawfully adopted rules, regulations or ordinances or Perquimans County, the more stringent or higher requirements shall govern.

#### **ADMINISTRATION**

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The Perquimans County Inspection Department will enforce this Ordinance. The said Department is directed to withhold all permits from any Mobile Home or Manufactured Home which does not comply with the requirements of this Ordinance.

### **PENALTIES**

Any person who violates any provisions of this Ordinance shall be guilty of a misdemeanor and punishable according to N.C.G.S. 14-4. Each day's failure to comply with any provision of this Ordinance shall constitute a separate violation. The County may use any or the enforcement techniques authorized by G.S. 153A-123.

### **EFFECTIVE DATE**

This Ordinance shall become effective upon its adoption.

This instrument was presented for registration this day and duly recorded in the office of the Register of Deeds of Perquimans County, NC in ORDINANCE BOOK I, Page 192.  
This 4th day of November, 1993 at 8:30 A.M.

### **3-22 Day Care Operations**

#### 3-22.1 Types of Day Care Operations

1. Child Day Care Home. A day care operation in which day care is provided for 3 to 12 per-school children or 15 school-age children.
2. Adult Day Care Home. A day care facility in which day care is provided for up to 6 adolescents, or disabled or older adults.
3. Adult Day Care Center. A day care facility in which day care is provided to 7 or more adolescents, or disabled or older adults.

#### 3-22.2 Conditions for Day Care Operations

2. Licensed by the State of North Carolina.
3. Hours may be limited by the permit issuing agency for facilities located in residential neighborhoods.
4. At least 25 square feet of heated space shall be provided for each child enrolled.
5. At least 75 square feet of outdoor recreational areas for each client.
6. All outdoor areas shall be located in a side or rear yard and enclosed by a fence at least 4 feet in height.

#### 3-22.3 Conditions for Family Child Care Home Operations

1. Licensed by the State of North Carolina
2. License holder must reside at the residence.

3. May not be located within 500 ft. of another Family Child Care Home.
4. May not have overnight hours (9:00 P.M. to 6:00 A.M.) of operations.
5. May have one part-time/temporary employee from outside the residence.
6. Must provide two off-street parking/loading spaces in addition to the residence requirements.
7. May have one (1) sign not to exceed three (3) square feet, non-illuminated, and mounted flat against the wall of the residence.

### 3-23 Projections into Required Yards

Certain architectural features, fences, walls, and hedges may project into required yards as follows:

1. Cornices, eaves, gutters, and sills. Not more than two (2) feet into any yard;
2. Balconies, bay windows, steps, and chimneys. Not more than three (3) feet into front yards and rear yards, nor more than two (2) feet into any side yard;
3. Uncovered patios, decks, and porches. Permitted in side and rear yards, provided they extend no more than three (3) feet into any side yard and no closer than 5' to the rear property line;
4. Uncovered stoops. Not more than five (5) feet into a front yard;
5. At-grade driveways, paths, or walks may be placed in any yard;
6. Heating, ventilating, and air conditioning (HVAC) equipment may be placed in a side or rear yard provided a five (5) foot setback is maintained;
7. Handicapped ramps may project into any required setback up to six (6) feet. In no case shall handicapped ramp be located within any street right-of-way;
8. Open fire escapes. Not more than four and one-half (4 ½) feet into a rear yard;
9. Trees are allowed in any yard, provided that no hedge is formed within the front four (4) feet of the front yard, provided that there is no violation of Section 3-8;
10. Landscape features including but not limited to, ornamental pools, planting boxes, sculpture, arbors, trellises, and bird baths shall not be any closer than 1' to any property line;
11. Pet shelters, play equipment, outdoor furniture, ornamental entry columns and gates, flagpoles, lampposts, address posts, mailboxes, and outdoor fireplaces shall not be any closer than 1' to any property line. Pet shelters are not allowed in the front yard.

## ARTICLE IV: CONDITIONAL USES

### Section 4-1 General

Conditional uses add flexibility to the zoning ordinance by allowing uses, which could otherwise be undesirable, to be established in designated districts under conditions imposed by the Board of Adjustment. Applications for conditional use permits shall be filed with the Zoning Administrator, who shall immediately transmit the application to the Board of Adjustment. Before granting a conditional use, the Board of Adjustment shall advertise and hold a public hearing, such public hearing being advertised in a paper of general circulation at least one week in advance. After the public hearing, the Board of Adjustment shall grant permission to establish conditional uses as permitted under these regulations if the Board of Adjustment finds that:

- 4-1.1 the location and character of the use, if developed according to the plan submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Hertford and its environs;
- 4-1.2 the proposed use will not adversely affect the public health and safety if located where proposed and developed according to the plan as submitted and approved;
- 4-1.3 the proposed use will not be detrimental to the use development, or value of adjacent properties; or that the use is of a public necessity;
- 4-1.4 the proposed use will not be affected adversely by the existing uses;
- 4-1.5 the proposed use will be placed on a lot of sufficient size to satisfy the space requirements of said use;
- 4-1.6 the proposed use or its location will not constitute a nuisance or hazard to surrounding property or residents because of the number of persons who will attend or use such facility, vehicular movement, noise or fume generation or type of physical activity; and ,
- 4-1.7 the use meets all required conditions and specifications.

### Section 4-2 Specified Conditions

The Board of Adjustment may grant permission for the establishment of conditional uses, subject to any specific conditions, either set forth or referenced below, or which said board may deem necessary to satisfy the conditions of Section 4-1 of the Article.

- 4-2.1 Bulk Storage of Oil, Gasoline, and Other Flammable Materials:
  - a) the front, rear, and side yards shall be a minimum of fifty (50) feet;
  - b) the storage area shall be enclosed by a fence at least six (6) feet in height; and,
  - c) the tanks and other storage facilities shall meet the requirements of the National Fire Protection Association.

4-2.2 Junk and Salvage Yards:

- a) the front rear, and side yards shall be a minimum of fifty (50) feet;
- b) the storage area shall be screened by a continuous visual buffer at least six (6) feet in height; and,
- c) junk or salvage shall not be allowed to collect water, which provides breeding ground for mosquito and other insects, or harbor breeding ground for rats or other rodents.

4-2.3 Marinas, Private (including facilities for storage and repairs of boats and sale of boating supplies and fuel)

- a) Location and site requirements. Marinas shall be so located as to be accessible from major roads without creating traffic congestion on minor streets through residential districts.
- b) Operational and site planning requirements.
  - 1. Launching ramps, boat repair facilities for sale of boating supplies and fuel, clubhouses, and parking areas for boat storage on land which are to be open for use between the hours of 10:00 P.M. and 7:00 A.M. shall be at least three hundred (300) feet from the nearest lot line of any lot upon which a residence is permissible. If any such areas or functions are not open between the hours indicated, the distance may be reduced to 150 feet, or if parking areas and areas for boat storage on land are enclosed by a solid masonry wall at least six (6) feet in height, the distance may be reduced to 150 feet.
  - 2. A minimum of one (1) off-street parking space per boat slip shall be required, provided that where launching ramps adjoin the parking area, the parking spaces shall all have a minimum dimension of twelve (12) feet by forty (40) feet.
  - 3. Where fuel is to be dispensed in conjunction with other marina operations, no pump or fuel storage area shall be located within fifty (50) feet of any adjacent property line or public right-of-way.

4-2.4 Sanitary Landfill or Incinerator:

- a) no refuse shall be deposited and no building or structure shall be located within fifty (50) feet of the nearest property line; and.
- b) the operation of said landfill or incinerator shall be carried out in accordance with the standards and procedures prescribed by the North Carolina State Board of Health.

4-2.5 In such cases where a use is being considered by the Board of Adjustment as a conditional use to be allowed in a TR (Transitional Residential) district, the use shall:

- a) satisfy the conditions of Section 4-1 of this Article, and
- b) be located in a residential structure existing on the effective date of this title, except where the building inspector certifies the residential structure on the lot on which said use is to be located is dilapidated and cannot be brought up to acceptable standards for occupancy for less than fifty (50%) of its assessed valuation or where a lot is vacant on the effective date of this title in which case the Board of Adjustment may allow as a conditional use, the location of said use in a new structure, provided it reviews the plans for the structure and finds them in harmony with the residential character of the area.

4-2.6 Group Development:

In the case where two (2) or more buildings are to be constructed on a plot of land at least two (2) acres in size, not subdivided into customary streets and lots, and which will not be subdivided, the application of the terms of this ordinance may be varied by the Board of Adjustment in a manner that will be in harmony with the character of the neighborhood provided:

- a) that such uses are limited to those permitted within the zoning district in which the project is located, and that in no case shall the Board of Adjustment authorize a use prohibited in the district in which the project is to be located; and
- b) that the overall intensity of land use is no higher and the standard of open space is no lower than is permitted in the district within which the project is to be located; and
- c) that the building heights do not exceed the height limits permitted in the district within which the project is to be located; and
- d) the minimum front, side and rear setbacks shall at least equal those setbacks established for the district within which the project is to be located; and
- e) all buildings established as a part of a group development project shall be separated by not less than twenty (20) feet; and
- f) where a group development abuts property zoned under a different classification, buffer strips shall be provided in agreement with Section 3-9; and
- g) a detailed site plan at a scale of not less than one (1) inch equals one hundred (100) feet shall be submitted to the Planning Board to show the size and location on all structures, streets, drives and parking spaces and their relationship to open spaces and adjacent properties; the Planning Board shall have forty-five (45) days to submit their recommendations to the Board of Adjustment (after forty-five days, the Planning Board is assumed to concur with such plan) who shall make final determination of appropriateness Section 4-1) and shall establish any additional conditions of approval.

#### 4-2.7 Restaurant, Short Order/ Take Out:

In such cases where a Short Order/ Take Out Cooking establishment is being considered for a C-3 zone, the use shall:

- a) Satisfy the conditions of Section 4-1.
- b) A minimum of three (3) off-street parking spaces for customer pick-up. These spaces shall not be in addition to any other off-street parking requirements due to other uses of the facilities.

#### 4-2.8 Bar, Tavern

- a) No such establishment shall be located within four hundred (400) feet of a church, elementary or secondary school, public park, or residentially-zoned property.
- b) A minimum six (6) foot high opaque fence shall be erected adjacent to the property abutting residences.
- c) All required parking areas shall be no closer than thirty (30) feet to the property line of abutting residences.

#### 4-2.9 Automobile Repair Shop

- c) No storage of any wrecked , partially dismantled, or inoperative vehicle shall be permitted, except inside the building. (Vehicles may be parked outside while waiting to be repaired)
- d) All repair work shall be conducted inside an enclosed area.
- e) Any type of auto body work or painting shall be specifically excluded.
- f) A minimum six (6) foot high opaque fence shall be erected adjacent to the property abutting residences.
- g) In the C-3 District the maximum zoning lot size is one acre.

#### 4-2.10 Equipment Rental & Leasing

- h) Outside storage must be fenced in with opaque screening.
- i) No outside storage shall be allowed on public property.

#### 4-2.11 Greenhouses and Nurseries

In such cases where greenhouses and nurseries is being considered by the Board of Adjustments as a conditional use to be allowed in a R-10 district, the following use shall:

- j) Be located on no less than one (1) acre of land independent of the residence.
- k) Satisfy the conditions of Section 3-9

#### 4-2.12 Entertainment Establishments

- l) No such establishment shall be allowed within four hundred (400) feet of a residential district.
- b) No such establishment shall be allowed within four (400) feet of another Entertainment Establishment, Bar, or Tavern.
- m) Satellite parking shall not be allowed.

#### 4-2.13 Automobile Sales in C-1 Zoning Districts

- a. Space for the sales of antique vehicles is not to exceed 40% of the open space of the entire property
- b. The vehicles offered for sale or on the lot are to be in like restored condition and 30 years old or older
- c. The sales of antique vehicles must be in conjunction with a fully operational Automobile Service Station.

#### Section 4-3 Revocation of Permits

Whenever the Board of Adjustment shall find, in the case of any permit granted pursuant to the provisions of these regulations, that any of the terms, conditions, or restrictions upon which such permit was granted are not being complied with, said board shall revoke such permit after sending notice to the owners of the property involved and to the owners of all adjacent property.

## ARTICLE V

### OFF-STREET PARKING AND LOADING REQUIREMENTS

#### Section 5-1 Off-Street Parking Requirements

In all districts, except C-1, Central Business District, permanent off-street parking shall be provided as specified in this article at (1) the time the building is erected, (2) the time any principal building is enlarged or increased in capacity, or (3) before conversion of one type of use or occupancy to another. Such parking may be provided in a parking garage or in a graded open area. No Certificate Of Occupancy or Conditional Use Permit will be issued unless off-street parking and loading requirements as set forth by this article are in place and ready for use but in no case will an addition or enlargement of a building be allowed that reduces the existing off-street parking capacity.

- 5-1.1 Each application for a zoning permit shall include information as to the location and dimensions of off-street parking and loading space, and the means of ingress and egress to such space. This information shall be sufficient detail to determine whether or not the requirements of this section are met.
- 5-1.2 The required parking space for any number or separate uses may be combined in one lot, but the required space assigned to one use may not be assigned to another use, except that one half of the parking space required for churches, theaters, or assemble halls, whose peak attendance is at night or Sunday's, may be assigned to a use which will be closed at night and/or Sundays.
- 5-1.3 If the off-street parking space required by this ordinance cannot be reasonably provided on the same lot on which the principal use is located, such space may be provided on other off street property under the ownership or on other property rented or leased, provided such property lies within four-hundred (400) feet of the principal use or building. Such property shall be referred to as "satellite" parking. Satellite parking shall be associated with the principal use and shall not thereafter be reduced or encroached upon in any manner, which would reduce the number of parking spaces below the required minimum. Satellite parking shall have sign/signs posted that show the parking spaces are reserved for the principal use. Conditional use permits for Home Occupations are specifically excluded from this section and must meet the off-street parking requirements on the same lot as the home occupation.

If rented or leased space is used to meet the off-street parking requirements, a copy of the legal rental agreement or lease, for a minimum of one year, must be provided with the application for the zoning or conditional use permit. A certified copy of the duly executed and registered rental agreement or lease shall be provided to the Zoning Administrator before the zoning or conditional use permit will be issued. The Zoning Administrator shall be notified, in writing within 30 days, of any change to or cancellation of the rental agreement or lease. Certified proof of renewal shall be supplied to the Zoning Administrator within 30 days of the renewal or extension of the rental agreement or lease. Failure to continue the rental agreement or lease will mean failure to comply with the requirements of the zoning or conditional use permit and possible loss of such permits.

- 5-1.4 The minimum number of required off-street parking spaces shall be calculated from the following table. In the case of a building or use not expressly provided for, the number of off-street spaces shall be the same as for a similar use or inclusive category, which is provided for. Where there is more than one use in a single structure, or on a single tract, or two or more instances of the same use, the minimum number of required off-street parking spaces shall be equal to the sum of the requirements of the various uses.

The following parking requirements shall be applied as indicated in the table of Use District:

#### OFF-STREET PARKING FACILITY REQUIREMENT

<u>CATEGORY</u>	<u>REQUIREMENTS</u>
A	Two (2) parking spaces per dwelling unit.
B	One (1) parking space per room designed for occupancy (2 beds per room maximum) or unit plus ten (10) percent of that number for employees.
C	Three (3) spaces in addition to resident's requirements.
D	One (1) space for each four (4) seats in the principal place of assembly.
E	One (1) space for each room or office plus one (1) space for each five (5) students over 16 years of age.
F	One (1) space for each two hundred (200) square feet of gross floor area.
G	One (1) space for each six hundred (600) square feet of gross floor area.
H	One (1) space for each one thousand (1,000) square feet of gross floor area.
J	One (1) for every three (3) seats or one (1) space for every one hundred (100) square feet of floor space exclusive of kitchen and restroom facilities; whichever is greater.

#### Section 5-2 Off-Street Loading

Every building or structure used for business, trade or industry hereafter erected shall provide space, as indicated herein, for the loading and unloading and maneuvering space of vehicles off the street or public alley. Such space shall have access to an alley or if there is no alley, to a street. For the purpose of this section, an off-street loading space shall have minimum dimensions of twelve (12) feet by forty (40) feet, and an overhead clearance of fifteen (15) feet above the alley or street grade. No certificate of occupancy will be issued upon completion of any use or structure unless all off-street loading requirements shall be in place, ready for use and conforming to requirements of this article.

- 5-2.1 The number of required off-street loading spaces shall be as follows:
- (a) Retail Business - One (1) space for each twenty thousand (20,000) square feet of gross floor area or fraction thereof.
  - (b) Wholesale Trade and Industries - One (1) space for each forty thousand (40,000) square feet of gross floor area or fraction thereof.
  - (c) Office or Institution - One (1) space for each fifty thousand (50,000) square feet of gross floor area or fraction thereof.

## ARTICLE VI

### NONCONFORMING USES OF LOTS, LAND AND STRUCTURES

#### Section 6-1 General

Within the districts established by this ordinance or amendments that are later adopted, there exists lots, structures and uses of land and structures which were lawful before this ordinance was passed or amended, but which would be prohibited, regulated or restricted under the provisions of this ordinance or future amendment. Such lots, structures and uses of such land and structures are called nonconformity's. It is the intent of this ordinance to permit these nonconformity's until they are removed or discontinued but not to encourage their survival. It is thus the intent of this ordinance that nonconformity's shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district and that when a nonconforming use of land or of a building or structure has been changed to a conforming use, it shall not thereafter be used for any nonconforming use. Nonconforming uses are declared by this ordinance to be incompatible with the permitted uses in the district involved. The rights of a nonconformity under this article shall not be passed on to a successor in title thereto, except as allowed specifically by Sections 6-2, 6-3, 6-4.

#### Section 6-2 Nonconforming Lots (Lots of Record)

In any district other than M-1, C-2, C-3, C-4, C-5, O/I, and R-6 a dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of this ordinance or amendment of this ordinance, even though other provisions of this ordinance may impose limitations. The lot must be in separate ownership and not be in continuous frontage with other lots in the same ownership. This provision shall apply even though the lot fails to meet the requirements of width or area that are generally applicable in the district, provided that yard dimensions and requirements, other than those applying to area and width, of the lot shall conform to the regulations for the district in which the lot is located. Variance of yard requirements shall be obtained only through action of the Board of Adjustment as established by Article X of this ordinance.

If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at time of passage or amendment of this ordinance, and if all or part of the lots do not meet the requirements for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this ordinance.

This subsection shall not apply to a nonconforming lot if a majority of the developed lots located on either side of the street where the lot is located and within 500' of such lot are also nonconforming. The intent of this subsection is to require nonconforming lots to be combined with other undeveloped lots to create conforming lots under the circumstances herein, but not to require such a combination when that would be out of character with the way the neighborhood has previously been developed.

In any district where single-family dwellings are permitted, a lot of record, which is conforming in all other respects but the applicable setback requirements cannot reasonably be complied with, then the Board of Adjustment may allow deviations from the applicable setback requirements if it finds that:

1. The property cannot reasonably be developed for the use proposed without such deviations;
2. These deviations are necessitated by the size or shape of the nonconforming lot;
3. The property can be developed as proposed without any significantly adverse impact on surrounding properties or the public health or safety; and
4. The property can meet the average distance of the building setbacks of the developed properties on the same and opposite sides of the street to which the subject property abuts

#### Section 6-3 Nonconforming Uses of Land

Where, at the passage of this ordinance, lawful use of land exists which would not be permitted by the regulations imposed by this ordinance, the use may be continued so long as it remains otherwise lawful, provided, that:

- 6-3.1 No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance.
- 6-3.2 No such nonconforming use shall be moved in whole or in part to any portion of a lot or parcel, other than that occupied by such use of the effective date of adoption or amendment of this ordinance.
- 6-3.3 If such nonconforming use of land ceases for any reason for a period of more than ninety (90) days, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.
- 6-3.4 No existing nonconforming use of land may be changed to another nonconforming use, except that the Board of Adjustment may permit as a conditional use a change in a nonconforming use if the Board finds that such new use would be more in character with the use permitted in the district, provided that once the Board of Adjustment has permitted such substitution, the substituted use shall lose its status as a legal nonconforming use and become subject to any conditions required by the Board of Adjustment. Once such change has been made, use of the land or structure may not revert to the previous nonconforming use.
- 6-3.5 Mobile homes on individual lots which are nonconforming use in the district in which they are located may remain, provided that once any such mobile home is removed from the lot on which it is located it shall lose its status as a nonconformity and the same or another mobile home may not thereafter be placed on the lot.

#### Section 6-4 Nonconforming Structures

Where a lawful structure exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- 6-4.1 No such nonconforming structures may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.
- 6-4.2 Should such structure or nonconforming portion of such structure be destroyed or damaged by fire, flood, wind, or other act of God to an extent or more than fifty (50) percent of the replacement cost at the time of destruction, the structure may be reconstructed or repaired provided that the reconstruction or repairs
- Do not increase, extend, or expand the existing nonconformities
  - Do not create any new nonconformities
  - A building permit for the reconstruction or repairs is applied for within one year of the date of destruction
- An extension of time may be granted as a variance by the Zoning Board of Adjustments provided extenuating circumstances warrant additional time.
- 6-4.3 Should a structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
- 6-4.4 Nonconforming existing residential structures in either business or industrial districts may be enlarged, extended or structurally altered provided no additional dwelling units result and the extension or alteration shall comply with the dimensional requirements for the district in which it is located.
- 6-4.5 Normal maintenance and repair of a structure occupied by a nonconforming use is permitted provided it does not extend or enlarge the nonconforming use.

**NON-CONFORMING MOBILE HOME PARKS**  
**PROPOSED AMENDMENT**

Where a nonconforming mobile home park is located in a zoning district in which mobile home parks are not permitted, the park may not be expanded in any manner. The park may continue to be operated as a nonconforming use with the same number of spaces for which improvements had been made on the date of adoption of this ordinance as long as all other applicable state and county requirements are met.. When such nonconforming mobile home park is discontinued or abandoned for six consecutive months (except when government action impedes access to the premises), the land shall thereafter be used in conformity with the regulations of the district in which it is located.

## **ARTICLE VII**

### **SIGNS**

#### Section 7-1 General Provisions

All signs within the jurisdictional area of this ordinance shall be subject to these regulations and shall be erected, constructed, and maintained in accordance with the provisions of this article.

- 7-1.1 There shall be only one sign or billboard of an area not to exceed 250 square feet per building, establishment or lot.
- 7-1.2 There shall be no rooftop signs or billboards.
- 7-1.3 Signs located on the front of a marquee shall be affixed flat to the surface thereof and shall not extend vertically above or below the marquee.
- 7-1.4 No sign or billboard, which obstructs the view of, cause confusion or otherwise interferes with, any authorized traffic signs, signals or their safety services shall be erected at any location.
- 7-1.5 No light, which resembles an emergency light, shall be used in connection with any sign.
- 7-1.6 No sign or billboard shall be located within 50 feet of residentially zoned lot and, in addition, if the lot on which the sign or billboard is located abuts a residential district said sign or billboard shall be set back to meet the side, rear, and front setback requirements of said abutting residential lot.
- 7-1.7 No flashing sign shall be located within 300 feet of any residentially zoned lot.
- 7-1.8 Direct illuminated signs shall be limited to those lighted from behind or internally to silhouette letters and figures, so as to prevent a direct view of the light source.
- 7-1.9 All illuminated signs shall be constructed to meet the requirements of the National Electric Code, and shall be subject to review and inspection by the Building Inspector.
- 7-1.10 Signs that contain, include, or are lighted by any flashing, intermittent, or moving lights are prohibited, except those giving public information such as time, temperature, or date.
- 7-1.11 Flood lighting and display lighting shall be shielded so as to prevent a direct view of the light source from a public right-of-way or from a residence in a residential district.
- 7-1.12 All signs and billboards shall be kept in repair and in a proper state of preservation. Signs, which are no longer functional or are abandoned shall be removed or relocated by the owner of such sign or billboard within 30 days following such dysfunction.
- 7-1.13 No sign shall be attached to or painted on any utility pole or other manmade object not intended to support a sign or on any tree, rock, or other natural object.

- 7-1.14 Signs not meeting the requirements of this section or any other applicable section of this ordinance shall be treated either as a nonconformity or as a violation with remedy being sought as provided under Article VI, Article VIII, or Article XII or these regulations or under G.S. 160A-389.

#### Section 7-2 Administration, Filing Procedure, and Permits

- 7-2.1 No free standing or attached sign may be erected within the zoning jurisdiction of the Town of Hertford unless and until a sign permit has been issued by the Zoning Administrator.
- 7-2.2 The Zoning Administrator shall only issue a permit for the erection or construction of a sign, which meets the requirements of this section.
- 7-2.3 Applications for permits to erect, hang, place, paint, or alter the structure of a sign shall be submitted on forms obtainable from the Zoning Administrator. Each application shall be accompanied by a plan showing the following:
- 7 area of the sign;
  - 8 size, character, general layout and designs proposed for painted displays;
  - 9 the method and type of illumination if any;
  - 10 the location proposed for such signs in relation to property lines, zoning district boundaries, right-of-way lines, and existing signs; and,
  - 11 any other information requested by the Zoning Administrator and necessary in enabling him to fulfill his duties under this section.
- 7-2.4 Appeals from a decision made by the Zoning Administrator may be appealed to the Board of Adjustment who may overrule his authority with a four-fifths (4/5) majority vote under the procedures set forth in Section 10-2 of the regulations. Appeals for a variance from the requirements of this section shall be treated under the procedure set forth in Section 10-2 of these regulations.

#### Section 7-3 Signs Exempt From Permitting

The following signs shall be permitted in all districts and not subject to the dimensional requirements of the ordinance except as regards to corner visibility, provided that no sign, other than those listed below, shall be erected within or project into a public right-of-way.

- 7-3.1 Governmental signs, such as traffic or similar regulatory devices, legal notices or warnings.
- 7-3.2 Flags or emblems not used as commercial advertising.
- 7-3.3 Temporary signs, totaling not over two square feet of surface area on any lot not used as commercial advertising, and for a period not to exceed 14 days in any quarter calendar year. It shall be the responsibility of the person who erects such a sign to have it removed.
- 7-3.4 Memorial plaques, cornerstones, historical tablets and similar devices.

- 7-3.5 Non-commercial signs posted in conjunction with doorbell or mailboxes and not exceeding 8 square inches in surface area.
- 7-3.6 Signs requires by law to be posted, unless specifically prohibited, limited or restricted.
- 7-3.7 Small unilluminated signs, none exceeding 2 square feet in surface area, displayed strictly for the direction, safety or convenience of the public, including signs which identify restrooms, parking area entrances or exits, freight entrances and the like.
- 7-3.8 Address signs, not exceeding 72 square inches in surface area and showing only the numerical address designations of the premises upon which they are located.
- 7-3.9 Small unilluminated announcement signs concerning the practice of a profession, the conduct of an incidental home occupation, or other authorized occupation provided it is not over 2 square feet in area and is mounted flat to the main wall of the building.
- 7-3.10 Temporary unilluminated real estate signs not over six square feet in area displayed on the property proposed for sale or rent and no closer than ten (10) feet to any property line.
- 7-3.11 Signs for church and community identification no larger than 25 square feet in area located on private property but no closer than ten (10) feet to any property line.
- 7-3.12 Construction site identification signs whose message is limited to project name, identification of architects, engineers, contractors, and other individuals or firms involved with the construction, the name of the building, the intended purpose of the building, and the expected completion date. Only one (1) sign per construction site is allowed and shall be no greater than 32 square feet in area or 10 feet in height. The sign must not be erected prior to issuance of a Building Permit and must be removed within 7 days of issuance of a Certificate of Occupancy

#### Section 7-4 Exceptions to Regulations Governing the Projection of Signs

The limitations of this ordinance governing the projection of signs from buildings and across public rights-of-way shall not apply to permitted marquees, canopies and awnings, but all other regulations pertaining thereto shall be applicable.

Area requirements do not include supporting structure.

#### Section 7-5 Density and Setback Requirements for Signs Requiring Permits

- 7-5.1 Temporary signs (those requiring permits) and principal use signs shall be set back at least ten (10) feet from any right-of-way or property in (unless otherwise required or permitted under specific district regulations) and shall be setback from street intersections in accordance with Section 3-8 of this ordinance.
- 7-5.2 Outdoor advertising signs shall be setback a distance equal to the minimum requirements for the district on which they are located. No permit shall be issued for any outdoor advertising sign closer than one hundred (100) feet from any road intersection. The minimum distance between such signs shall be three hundred (300) feet.

## Section 7-6 Specific District Requirements for Signs or Billboards

- 7-6.1 Residential District, RA, R10, R8, R6- No signs or billboards shall be allowed in any of the above named districts except those described in Section 7-3 of these regulations.
- 7-6.2 Transitional Residential District, TR - No outdoor advertising or flashing signs shall be allowed in this district. There shall be only one principal use sign per business or service establishment and in the case of multiple establishments, only one principal use sign per building or lot. Permitted business and service establishments shall be allowed to advertise or locate in the use of an attached sign not to exceed twenty (20) square feet or ten (10) percent of unencumbered facade area, whichever is less.

Unless otherwise specified, all provisions of Section 7-1 shall apply

- 7-6.3 Office and Institutional District, O/I - Outdoor advertising signs and flashing signs shall not be allowed within this district.

There shall be only one sign per principal use and its total area shall not exceed twenty (20) square feet except that in the case of cluster development there may be one sign not greater than twenty (20) square feet in area for the purpose of serving the entire cluster and one additional sign not greater than four (4) square feet in area mounted flat against the wall beside each entrance serving a reception area to describe the name and title of individual establishments served by than entrance.

Freestanding signs shall not exceed fifteen (15) feet in height.

- 7-6.4 Commercial Core District, Neighborhood Commercial District, C1, C3, - No free standing sign shall be allowed in this district, except where:
- 7 The lot upon which the principal use sign is to be located has at least fifty (50) feet of frontage on at least one street, and
  - 8 Not more than sixty (60) percent of the lot is to be built upon, the remainder reserved for vegetative plantings, customer parking, or pedestrian walkways, and
  - 9 A minimum building setback of at least fifteen (15) feet from any property in, street, or public access way is observed.

No free standing sign in the district shall be located within ten (10) feet of any property line, street, or public access way.

No free standing sign shall be larger than fifty (50) square feet nor exceed more than one square foot of sign area for each linear foot of street frontage exhibited by the use.

No free standing sign shall exceed twenty (20) feet in height above natural ground level.

No outdoor advertising signs (billboards) of any type shall be allowed in this district.

No attached sign shall be larger than fifty (50) square feet or ten (10) percent of the facade of the building front in area whichever is less.

All attached sign shall be mounted flat against the face of the building and all letters and superscriptions thereon shall be parallel with the face of the building. No attached sign shall project more than one (1) foot from the face of a building and shall not be less than ten (10) feet above street level.

7-6.5 Manufacturing and General Commercial Districts, M1, C2- All requirements of Section 7-6.4 shall apply except that outdoor advertising and free standing signs shall be allowed, and except that in the case of a designed shopping center consisting of five (5) or more separate establishments one additional sign not to exceed fifty (50) square feet in area shall be allowed for identification of the designed shopping complex only and shall not be used for the advertisement of any commodity, profession or service. In such cases where said sign is to be free standing, it shall not be within ten (10) feet of any property or right-of-way line, and shall be no more than twenty (20) feet in height above natural ground level.

7-6.6 Commercial, Light Industrial and Riverfront Districts, C4, C5 - One freestanding sign is allowed per individual lot and shall not exceed 50 square feet in size or exceed 20 feet in height above natural ground level.

No attached wall sign shall be larger than 50 square feet or 10% of the façade of the building whichever is less.

No freestanding sign shall be located closer than 15 feet of any property line or right-of-way.

No billboards or outdoor advertising signs of any type shall be allowed.

Animated, rotating, or other moving, or apparently moving signs shall be prohibited.

Banners, posters, pennants, ribbons, streamers, strings of lights bulbs, spinners, or other similar devices shall be prohibited.

Multiple Tennant Signs - In the case of multiple tenants, one freestanding sign is permitted per lot and individual tenants are allowed one attached wall sign, each based on the total allowable sign area allocated. The total allowable sign area is equal to one (1) square foot /linear foot of building wall facing the street or 10% of the building façade whichever is less. Wall signs total allowable sign area is to be allocated by the owner or manager of the property.

Multiple Entrances - If a parcel of land has additional street frontages, one (1) monument identification sign, meeting the same setbacks, is allowed per street frontage. This sign shall not exceed 32 square feet in display surface and 6 feet in height. This applies to frontages that do not have an allowable freestanding sign.

Commerce Centre Signs - Perquimans County Commerce Centre identification signs shall not exceed 100 square feet in size and 20 feet in height. Signs shall be located at the one main entrance from existing state roads and may be located within right-of-way entrances, as permitted by NCDOT. Additional signs are allowed at additional entrances and at the boundaries of the Commerce Centre along state roads. Additional signs shall not exceed 50 square feet and 6 feet in height.

## **ARTICLE VIII**

### **ADMINISTRATION AND ENFORCEMENT**

#### Section 8-1 Administration and Enforcement

The Zoning Administrator shall administer and enforce this ordinance. He may be provided with the assistance of such other persons as the Town Commissioners may direct.

If the Zoning Administrator shall find that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance to insure compliance with or to prevent violation of its provisions.

#### Section 8-2 Required Permits

##### 8-2.1 Zoning Permit

No Building or other structure shall be erected, moved, added to, or structurally altered without a permit therefore issued by the Zoning Administrator. No such permit shall be issued except in conformity with the provisions of this ordinance, except after written order from the Board of Adjustment.

##### 8-2.2 Application for Zoning Permit.

- a) All applications for Zoning Permits shall be accompanied by plans in duplicate, drawn to scale, showing actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and location and the dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the Zoning Administrator including existing or proposed uses of the building and land; the number of families the building is designed to accommodate, conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of this ordinance.
- b) One copy of the plan shall be returned to the applicant by the Zoning Administrator after he shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. The second copy of the plans, similarly marked, shall be retained by the Zoning Administrator.

#### 8-2.3 Certificate of Occupancy/Compliance

No land shall hereafter be used, occupied or changed in use except for bona fide farm purposes, and no building hereafter structurally altered, erected or moved shall be changed in use or occupied for other than bona fide farm purposes until a Certificate of Occupancy/Compliance has been issued by the Zoning Administrator stating that the building or proposed use complies with all applicable state and local laws and with the terms of the Zoning Permit. A like certificate shall be issued for the purpose of maintaining, renewing, changing or extending a nonconforming use. All existing nonconformers shall apply for a Certificate of Occupancy/Compliance without charge within ninety (90) days of the effective day of this ordinance. A record of all certificates shall be kept on file in the office of the Zoning Administrator, and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building erected or altered or in the building or land being used. A fee of one dollar shall be charged for the issuance of each such certificate.

#### 8-2.4 Application for Certificate of Occupancy/Compliance

Application for a Certificate of Occupancy/Compliance shall be submitted to the Zoning Administrator prior to anticipated completion, movement or use date to allow scheduling of required inspections. A fee of one dollar shall be charged with each permit.

### Section 8-3 General Provisions

- 8-3.1 If any permit or certificate is denied, the applicant may appeal the action of the Zoning Administrator to the Board of Adjustment.
- 8-3.2 If the work and/or change of use described in any Zoning Permit has not begun within ninety (90) days from the date of issuance thereof, said permit shall expire; it shall be canceled by the Zoning Administrator; and written notice thereof shall be given to the persons affected.
- 8-3.3 A temporary Zoning Permit may be issued by the Zoning Administrator for a period not exceeding six (6) months during alterations or partial occupancy of a building pending its completion or for bazaars, carnivals, religious revivals provided that such temporary permit may require such conditions and safeguards as will protect the safety of the occupants and the public.
- 8-3.4 The Zoning Administrator shall maintain a record of all applications for Zoning Permits and of all applications for Certificates of Occupancy/Compliance.
- 8-3.5 Zoning Permits issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use, arrangement, and construction set forth in such approved applications. Use, arrangement, or construction at variance with that authorized shall be deemed violation of this ordinance and punishable by Article XII, Section 12-3 thereof.

- 8-3.6 Failure to obtain permits and/or certificates set forth under this article shall be a violation of this ordinance and punishable under Article XII, Section 12-3 thereof.
- 8-3.7 The Town of Hertford Utilities Department shall not provide any permanent public service utilities to any structure or use, until a valid Certificate of Occupancy/Compliance is issued.

Section 8-4 Duties of Zoning Administrator, Board of Adjustment, Courts and Town Commissioners as to Matters of Appeal

- 8-4.1 It is the intention of this ordinance that all questions arising in connection with the enforcement of the ordinance shall be presented first to the Zoning Administrator and that such questions shall be presented to the Zoning Board of Adjustment only on appeal from the Zoning Administrator; and that from the decision of the Board of Adjustment recourse shall be to the courts as provided by law. It is further the intention of this ordinance that the duties of the Town Commissioners in connection with the ordinance shall not include the hearing and passing upon disputed questions that may arise in connection with the enforcement thereof, but that the procedure for determining such questions shall be as herein set out in the ordinance, and that the duties of the Town Commissioners in connection with this ordinance shall be only the duty of considering and passing upon any proposed amendment or repeal of the ordinance as provided by law.

## **ARTICLE IX**

### **AMENDMENTS**

The Town of Hertford Commissioners may amend, supplement or change the text regulations and zoning map according to the following procedures.

#### Section 9-1 Action by the Applicant

9-1.1 The following action shall be taken by the applicant:

(a) Initiation of Amendments

Proposed changes of amendments may be initiated by the Town Commissioners, Planning Board, Board of Adjustment, or by one or more interested parties.

(b) APPLICATION

An application for any change or amendment to the text of the ordinance shall contain a statement of the present and proposed zoning regulation. An application for a map change shall contain a legal description of the property involved. The application shall be filed with the Zoning Administrator not later than ten (10) days prior to the meeting of the Planning Board at which the application is to be considered.

The applicant for a change in the zoning classification of a parcel of land shall provide to the Zoning Administrator a list of names and addresses, as obtained from the county tax listings, of the owners of all abutting property and all owners of property within the area under consideration for rezoning along with a business (#10) envelope stamped with a first class stamp and addressed to each person on the list. These addressed envelopes and the list shall be submitted at least eight (8) work days prior to the Planning Board's public hearing. The Zoning Administrator shall verify the list and mail notices of the public hearing to each person on the list at least three (3) days in advance and shall certify that fact to the Planning Board. The Planning Board will make a recommendation to the Town Council where the final decision will be made at their next scheduled public meeting.

(c) FEES

A nonrefundable fee, according to a regularly adopted fee schedule of the Town shall be paid to the Town for each application for an amendment to defray some of the advertising and other administrative expenses involved.

## Section 9-2 Action by the Planning Board

### 9-2.1 The following action shall be taken by the Planning Board:

#### (a) Planning Board Consideration

The Planning Board shall consider and make recommendations to the Town Commissioners concerning each proposed zoning amendment. The Planning Board may hold separate public hearings or may sit concurrently with the public hearing held by the Town Commissioners.

## Section 9-3 Action by the Town Commissioners

### 9-3.1 Notice and Public Hearing

No amendment shall be adopted by the Town Commissioners until after public notice and hearing. Notice of Public Hearing shall be published once a week for two (2) successive calendar weeks in the local newspaper. Notice may also be made by posting the property concerned with a poster indicating the proposed change and hearing. Said notice is to be published the first time or posted not less than fifteen (15) days nor more than twenty-five (25) days (as per North Carolina General Statute 160A-364) prior to the date fixed for said hearing.

### 9-3.2 Town Commissioners Action

Before taking such lawful action as it may deem advisable, the Town Commissioners shall consider the Planning Board's recommendation on each proposed zoning amendment. If no recommendation is received from the Planning Board within (30) days after the public hearing, the proposed amendment shall be deemed to have been approved by the Planning Board.

### 9-3.3 Protests

In case of a protest a proposed zoning amendment signed by the owners of twenty (20) percent or more either of the area of the lots included in such proposed change, or of those immediately adjacent thereto either in the rear thereof, or extending (100) feet therefrom, or of those directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite lots, such amendment shall not become effective except by a favorable vote of three-fourths (3/4) of all the members of the Town Commissioners.

### 9-3.4 No protest petition shall be valid unless it is:

- (a) written;
- (b) bears the actual signature of the requisite number of property owners and states that they protest the proposed amendment; and
- (c) received by the municipal clerk in time to allow at least two normal working days (excluding weekends and legal holidays) prior to the public hearing on the amendment, so as to allow time for municipal personnel to check the accuracy and sufficiency of the petition

## ARTICLE X

### BOARD OF ADJUSTMENT

#### Section 10-1 Creating the Zoning Board of Adjustment

10-1.1 There shall be and is hereby created, under North Carolina General Statutes 160A-388 and 160A-362, a Board of Adjustment (hereafter called the Planning and Zoning Board) consisting of five (5) members and two (2) alternate members. Five (5) of the members, and one (1) of the alternate members shall reside within the Town of Hertford and shall be appointed by the Town Commissioners of the Town of Hertford. One (1) of the alternates shall reside within the town's extraterritorial jurisdiction and shall be appointed by the Board of Commissioners of Perquimans County. The five (5) members of the Board shall have initial terms of office as follows: one (1) member appointed for a term of one (1) year; two (2) members appointed for terms of two (2) years; and two (2) members appointed for terms of three (3) years. Alternate members shall be named to a term of three (3) years and shall serve in the absence of a regular member and shall during such service have the same statutory powers of that absent member. At completion of the initial terms of office for each member, all additional appointments to vacancies of the Board shall be for three (3) year terms. Vacancies shall be filled for the unexpired term only. The Town Commissioners upon written charges and after public hearing shall remove members and alternate members for cause. The members and alternate members of the Board may receive compensation for their services as designated by the Town Commissioners.

#### 10-1.2 Meetings

The Board shall elect one of its members as Chairman and another as Vice Chairman who shall serve for one (1) year. The Board shall designate one of its members as secretary. The Board shall draw up and adopt the rules of procedures under which it will operate. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. The Chairman, or in his absence, the acting Chairman, may administer oaths. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon every question, or his absence or failure to vote, indicating such fact, and also keep records of its examination and any other official action.

#### Section 10-2 Powers and Duties

10-2.1 The Zoning Board of Adjustment shall have the following powers and duties:

- a) To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, determination, or refusal made by the Zoning Administrator or other administrative officials in the carrying out or enforcement of any provisions of the ordinance. A concurring vote of four (4) members of the Board shall be necessary to reverse, wholly, or partly any order, requirement, decision, permit, determination or refusal pertaining to property within the corporate limits.

- b) To authorize upon appeal in specific cases such variances from the terms of this ordinance as will not be contrary to the public interests where, owing to special conditions a literal enforcement of the provisions of this ordinance would result in unnecessary hardship. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this ordinance. The Board shall not grant a variance from the terms of this ordinance unless and until the following findings are made:
  - 1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved;
  - 2. That literal interpretation of the provisions of the ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.
  - 3. That the special conditions and circumstances do not result from the actions of the applicant;
  - 4. That granting the variance requested will not confer on the applicant such a material alteration that is denied by this ordinance to other land, structures, or buildings in the same district, viewing the special conditions of the land of the applicant as will equitably result in effecting a purpose of this section.
- c) To hear and decide such conditional uses as the Board is specifically authorized to pass on by the terms of the ordinance (Article II and IV).

#### Section 10-3 Filing and Notice for an Appeal

10-3.1 Appeals from the enforcement and interpretation of this ordinance and appeals for variances may be taken to the Board of Adjustment by any person aggrieved or by any office, department, board of the bureau of the town affected. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property or that because of the transitory nature of the charged violation a stay would seriously interfere with enforcement of the ordinance, in which case proceedings shall not be stayed other than by a restraining order, which may be granted by the Board or by a court of record on application or notice to the officer from whom the appeal is taken and due case shown.

(a) Hearing of the Appeal

After receipt of notice of an appeal, the Board Chairman shall schedule the time for a hearing, which shall be at a regular or special meeting within forty-five (45) days from the filing of such notice of appeal.

(b) Notice

At least one (1) week prior to the date of the hearing, the Town of Hertford should furnish all adjoining property owners with written notices of the hearing.

(c) Fees for Appeal or Variances

A fee of one hundred fifty (\$150) dollars shall be paid to the Town of Hertford, North Carolina, for each appeal, to cover the necessary administrative costs and advertising.

Section 10-4 Appeal from the Zoning Board of Adjustment

- 10-4.1 An appeal from the decision of the Zoning Board of Adjustment may be made to the Perquimans County Superior Court within thirty (30) days after the decision is made by the Board, but not thereafter.

**ARTICLE XI**  
**DEFINITIONS**

Section 11-1

For the purpose of this ordinance, certain terms and words used herein shall be interpreted as follows.

Section 11-2 Tense and Number

11-2.1 The present tense includes the future and the future tense includes the present tense.

11-2.2 The singular number includes the plural number and the plural number includes the singular number.

Section 11-3 Word Interpretation

11-3.1 The word “may” is permissive.

11-3.2 The words “shall” and “will” are always mandatory and not merely directory.

11-3.3 The words “town” or “city” shall mean the Town of Hertford, North Carolina.

11-3.4 The words “Zoning Board” or “Zoning Commission” shall mean the Town of Hertford Zoning Board of Adjustment.

11-3.5 The words “Town Commissioners” shall mean the Town Commissioners of Hertford, North Carolina.

11-3.6 The word “person” includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.

11-3.7 The word “used or occupied” includes the words intended, designed, or arranged to be used or occupied.

11-3.8 The word “lot” includes the words plat, parcel, site, premises.

Section 11-4 Definitions

Accessory Use or Structure

A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

#### Adult Day Care Center

A day care facility in which day care is provided to 7 or more adolescents, or disabled, or older adults.

#### Adult Day Care Home

A day facility in which day care is provided for up to 6 adolescents, or disabled or older adults.

#### Alley

A public way, which affords only a secondary, means of access to abutting property and not intended for general traffic circulation.

#### Automobile Repair Shop

An establishment engaged in providing mechanical automotive maintenance and repair, such as engine repair, exhaust system replacement, and transmission repair, and/or providing other related services, such as upholstery or glass replacement. Unlike a Garage, an Automobile Repair Shop specifically excludes auto bodywork and painting.

#### Automobile Service Station

Any building or land used for the dispensing, sale or offering for at retail of any automobile fuels and lubricants, except that indoor car washing, minor motor adjustment, flat tire repair, and tire sales are only performed incidental to the conduct of the filling station. Uses permissible at an automobile service station to not include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise glare, fumes, smoke or other characteristics to an extent greater than normally found in service stations. An automobile service station is not a repair garage or a body shop.

#### Bar, Tavern (Drinking Places)

Establishments primarily engaged in the retailing of alcoholic drinks, such as beer, ale, wine, and liquor, for consumption on the premises, provided a valid permit(s) or license(s) is (are) issued by the NC Alcoholic Beverage Control Commission. In addition these facilities may provide music, either live or recorded, and the sale of food are subordinate aspects of their operation. Included in this definition are: cabarets, cocktail lounges, nightclubs, taprooms, and discotheques.

#### Billboard

Any Sign or Device by which lettering or pictorial material is displayed for the purpose of directing attention to a profession, business, commodity, service or entertainment conducted, sold or offered else where than upon the same lot.

#### Buildable Area

The portion of a lot remaining after yards have been provided.

#### Building

Any structure having a roof supported by columns or by walls and intended for shelter, housing or enclosure or persons, animals or chattels.

#### Building Height

The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of a flat roof; to the deck line of a mansard roof; or to the mean height level between the eaves and ridge of a gable, hip or gambrel roof.

#### Child Care

A program or arrangement where three or more children less than 13 years old, who do not reside where the care is provided, receive care on a regular basis of at least once per week for more than four hours but less than 24 hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage or adoption. Child care does not include the following:

- a.) Arrangements operated in the home of any child receiving care if all of the children in care are related to each other and no more than two additional children are in care;
- b.) Recreational programs operated for less than four consecutive months in a year;
- c.) Specialized activities or instruction such as athletics, dance, art, music lesson, horseback riding, gymnastics, or organized clubs for children such as Boy Scouts, Girls Scouts, 4-H groups, or boys and girls clubs;
- d.) Drop-in or short-term care provided while parents participate in activities that are not employment related and where the parents are on the premises or otherwise easily accessible, such as drop-in or short-term care provided in health spas, bowling alleys, shopping malls, resorts hotels, or churches;
- e.) Public Schools;
- f.) Nonpublic schools described in Part 2 of Article 39 of Chapter 115C of the General Statutes that are accredited by the Southern Association of Schools and that operate a child care facility as defined in subdivision (3) of this section for less than six and one-half hours per day either on or off the school site;
- g.) Bible schools conducted during vacation periods;
- h.) Care provided by facilities licensed under Article 2 of Chapter 122C of the General Statutes;

i.) Cooperative arrangements among parents to provide care for their own children as a convenience rather than for employment; and

j.) Any child care program or arrangement consisting of two or more separate components, each of which operates for four hours or less per day with different children attending each component.

#### Child Day Care Home

A day care operation in which day care is provided for 3 to 12 pre-school children or 15 school-age children.

#### Clubs, Lodges, & Fraternal Organizations

A Building or parcel of land used by a membership organization engaged in non-profit civic, social, or fraternal activities. Included in this definition but limited to are fraternal lodges, veteran's organization, civic associations, booster clubs, and social club.

#### Curb Cut

A lowered or cut-away curb for purposes of ingress or egress to property abutting a public street.

#### Customary Accessory Uses

a) Churches- Graveyards, Sunday school buildings, recreational facilities, does not include parochial education conducted on a daily basis.

#### District

Any section of the Town of Hertford in which zoning regulations are uniform.

#### Drive-In Restaurants or Refreshment Stand.

Any place or premises used for sale, dispensing or serving food, refreshments or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink food, refreshments, or beverages on the premises.

#### Drug Store

Any store whose primary purpose and whose majority of floor area is used to dispense medicines, supplies, or preparations that are for personal use in treating or carrying for injuries, infections, illnesses, or personal hygiene. No store whose gross floor area is greater than two thousand (2000) square feet shall be considered a drug store for the purposes of this ordinance.

#### Dwelling, Single-Family

A detached residential dwelling unit other than a mobile home, designed for and occupied by one family only.

Dwelling, Manufactured Home(including double-wides)

**Manufactured Home**

A residential dwelling unit built to the most recent standards of the U.S. Department of Housing and Urban Development, and composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis. Travel trailers and campers shall not be classified as Manufactured Homes.

**Manufactured Home, Class A**

A Manufactured Home constructed after January 1, 1977 that meets or exceeds the most recent construction standards promulgated by the U.S. Department of Housing and Urban Development and that satisfies the following criteria:

- a) length of the manufactured home does not exceed the width by more than four times;
- b) the manufactured home is at least 20 feet;
- c) the pitch of the manufactured home's roof has a minimum vertical rise of two and two-tenths feet for each twelve feet of horizontal run (2.2' in 12') and the roof is finished with a type of shingle that is commonly used in standard residential construction;
- d) the exterior siding consists predominantly of vinyl or aluminum horizontal lap siding ( that does not exceed the reflectivity gloss of white paint), wood or hardboard comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction;
- e) a continuous, permanent masonry foundation, unpierced except for required ventilation and access, is installed under the manufactured home;
- f) the tongue, axles, transporting lights and removable towing apparatus are removed subsequent to final placement;
- g) the manufactured home is placed on land owned by the owner of the manufactured home, which will be listed and taxed as real property.

**Manufactured Home, Class B**

A manufactured home constructed after January 1, 1977, that meets or exceeds the most recent construction standards promulgated by the U.S. Department of Housing and Urban Development but that does not satisfy one or more of the criteria necessary to qualify as a Class A manufactured home.

**Manufactured Home, Class C**

Any manufactured home that does not meet the definitional criteria of a Class A or Class B manufactured home.

#### Dwelling, Two Family

A detached residential building containing two dwelling units, designed for occupancy by not more than two families, with the number of families in residence not exceeding the number of dwelling units provided.

#### Dwelling, Multiple Family

A residential building designed for or occupied by three or more families, with the number of families, with the number of families in residence not exceeding the number of dwelling units provided.

#### Dwelling, Unit

One room, or rooms together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

#### Equipment Rental & Leasing

The renting and leasing of equipment such as but not limited to: tools, furniture, appliances, electronic equipment, recreational equipment, medical equipment, and light construction equipment.

#### Family

One or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage, no such family shall contain over (5) persons, but further provided that domestic servants employed on the premises may be housed on the premises without being counted as a family or families.

#### Food Store - Retail

To include bakeries, candy stores, fruit and vegetables, and other miscellaneous food stores engaged in the retail sales of specialized foods.

#### Garage

Building and premises where major mechanical and body work is performed such as straightening of body parts, painting, welding work, work necessitating the removal of major parts (e.g. cylinder heads, exhaust or intake manifolds) provided all work and equipment shall be stored and performed inside the garage structure, and provided that no, parts, or vehicles may be stored outside that no parts, or vehicle may be stored outside such structure for a period to exceed twenty-four (24) hours.

#### Group Care Facility

A traditional housing facility for thirty (30) or fewer residences, licensed by the State of North Carolina or a nonprofit corporation chartered by the State of North Carolina pursuant to Chapter 55A, NCGS, which provides room and board, personal care and rehabilitative services while persons receive therapy or counseling to assist them. Such facilities may have accessory uses conducted on premises, including but not limited to education, occupational training and production of goods and crafts.

#### Home Occupation

See Article III, General Provisions

#### Junk Yard (Salvage Yard)

Any land or area in excess of two hundred (200) square feet used, in whole or in part, for commercial storage and/or sale of waste paper, rags, scrap metal or other junk, and including storage or motor vehicles and dismantling or such vehicles or machinery.

#### Loading Space, Off-Street

Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.

#### Lot

For purposes of this ordinance, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces or are herein required. Such lot shall have frontage on a public street. No lot shall front a private street.

#### Lot Frontage

The front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under YARDS in this section.

#### Lot Measurements

- (a) Lot Depth: The mean horizontal distance between front and rear lot line.
- (b) Lot Width: The distance between side lot lines measured at the building line.

#### Lot of Record

A lot which is part of a subdivision recorded in the office of the Register of Deeds, Perquimans County, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

## Lot Types

- (a) Corner Lot- A lot located at the intersection of two or more streets.
- (b) Interior Lot- A lot other than a corner lot with only one frontage on a street.
- (c) Through Lot- A lot other than a corner lot with frontage on more than one street.  
Through lots abutting two streets may be referred to as double frontage lots.

## Marina

A private or public facility providing facilities for the launching, tying-up, or storing (in water or on land) of boats. Supportive services such as the sale of boating supplies and fuel may be allowed at the discretion of the Board of Adjustment. The principal purpose of the marina, however, shall be the launching, dockage and storage of boats.

## Mobile Home

See Dwelling Manufactured Home (Including Double Wides)

## Nonconforming Uses

The use of a building or land which does not conform to the use or dimensional regulations of this ordinance for the district in which it is located, either at the effective date of this ordinance or as a result of subsequent amendments which may be incorporated into this ordinance.

## Nursing Home

A facility which is advertised, announced, or maintained for the express or implied purpose of providing nursing or convalescent care services for three (3) or more residents. Continuing planned medical and nursing care is provided under the direct supervision of a physician, nurse or home health agency.

## Pawn Shop

A business activity where money is lent in exchange for personal property for security or where used merchandise is purchased at a discount and sold to the general public. All property must be stored inside the building.

## Parking Space, Off-Street

For the purpose of this ordinance, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, not less than ten (10) feet by twenty (20) feet, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for three or more automobiles shall have individual spaces marked, and shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be unparked without moving another.

#### Recreation/Sporting - Sales, Retail, Service

To include non-motorized boat rentals and sales and limited outdoor storage; recreational boat slips that are rented/leased to someone other than the property owner and the boat is not used for commercial purposes; sale, rental and repair of bicycles with limited outdoor storage and any other non-motorized recreational sales/rentals.

#### Rest Home (Adult Care Home)

An assisted living residence in which the housing management provides 24 hour scheduled and unscheduled care services to two (2) or more residents, either directly or, for scheduled needs, through a formal written agreement with a licensed home care provider.

#### Restaurant

A place where food is cooked, put together, portioned, set out or handed in unpackaged portions for human consumption on the premises, which can include restaurants, cafes, lunch stands, grills, snack bars, delicatessens, ice cream parlors, coffee shops, oyster bars, and fudge/candy stores.

#### Restaurant - Short Order/Take Out

Short Order/Take Out- Any place used for the preparation, cooking, dispensing, and sale of food, refreshments or beverages where such is taken off premises for consumption. Off premise shall be taken to mean that consumption will not take places in public within 100 feet of the facility unless within a designated park or picnic area.

#### Setback (Building) Front, Side, Rear

See Yard, Front, Side, or Rear

#### Sign

Any device designed to inform or attract the attention of persons not on the premises on which the sign is located.

#### Sign, Attached

Any device which is attached either to a principal or accessory building or to customary appurtenances thereof and purpose it is to inform or attract the attention of persons not on the premises.

#### Sign, Exterior

Any device located outside a building, structure, or establishment designed to inform or attract the attention of persons not on the premises on which the sign is located.

#### Sign, Flashing

A “flashing sign” is an illuminated sign on which the light is not constant in intensity and/or color at all times when in use. Any revolving or moving sign, illuminated or not, shall be consider a flashing sign.

#### Sign, Free Standing

Any sign other than an attached sign.

#### Sign, Outdoor Advertising

See Billboard

#### Sign, Principal Use

Any sign other than a temporary sign.

#### Signs, Surface Area

The surface area of a sign shall be computed as including the entire area within a regular geometric form or combinations of regular geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation.

#### Sign, On-Site

A sign relating in its subject matter to the premises on which it is located or to products, accommodations, services or activities on the premises, on-site signs do not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.

#### Sign, Off-Site

A sign other than an on-site sign.

#### Sign, Temporary

Any sign erected or placed on a parcel, lot or premises for not more then fourteen (14) days, such sign may or may not require a permit. (See Section 7-3)

#### Specialty School

A training school or program providing non-degree instructional programs such as but not limited to, driving instruction, modeling, flying, computer usage/programming, learning/tutoring centers or services

#### Street Line

The right-of-way line of a street.

## Structure

Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground, among other things, structures include buildings, mobile homes, walls, fences, billboards, poster panels, and swimming pools.

## Travel Trailer

A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreation purposes, having a body with not exceeding eight (8) feet. Trailers having a body with exceeding eight (8) feet shall be considered as a Mobile Home Dwelling.

## Use

- (a) Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained, or occupied; or
- (b) Any activity, occupation, business, or operation carried on, or intended to be carried on, in a building or other structure or on a tract of land.

## Use, Conditional

A conditional use is a use that would not be appropriate generally or without restriction throughout a particular zoning district but which, if controlled as to number, area, location, or relation to the neighborhood, would preserve the intent of this ordinance to promote the public health, safety, morals and general welfare. Specific provisions are made for conditional uses, which may be permitted in certain zones, and procedures for application are set out under Article IV of this ordinance.

## Use, Principal

The principal use for which a lot or the main structure thereon is designed, arranged, or intended, and for which it is or may be used, occupied, or maintained.

## Variance

A variance is a relaxation of the terms of zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformity's in the zoning district or uses in an adjoining zoning district.

## Variety (Convenience) Store

A quick service food for minor shopping of everyday items. Total floor area not to exceed 1500 square feet. Variety store may offer sale of gasoline with a maximum of 3 pumps per island and no island closer than 25 feet to any property or right-of-way line.

#### Yard

A required open space unoccupied and unobstructed by a structure provided however that fences, walls, poles, posts, and other customary yard accessories, ornaments and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

#### Yard, Front

A yard extending between side lot lines across the front of a lot adjoining a public street. In any required front yard, no fence or wall shall be permitted which materially impedes vision across such yard above the height of forty-eight (48) inches, and no hedge or other vegetation shall be permitted which materially impedes vision across such yard between the heights of forty eight (48) inches and ten (10) feet.

Depth of required front yards shall be measured at right angles to a straight line adjoining the foremost points of the side lot lines. The foremost point of the side lot line, in the case of rounded property corners at street intersections shall be assumed to be the point at which the side and front lot lines would have met without such rounding.

#### Yard, Rear

A yard extending across the rear of the lot between inner side yard lines. In the case of through lots and corner lots, there will be no rear yards, but not only front and side yards.

Depth of a required rear yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the rear lot line.

#### Zoning Administrator

The official charged with the enforcement of the zoning ordinance.

## **ARTICLE XII**

### **LEGAL PROVISIONS**

#### Section 12-1 Provisions of Ordinance Declared to be Minimum Requirements

In their interpretations and application, the provisions of the ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Wherever the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive to that imposing the higher standards, shall govern.

#### Section 12-2 Complaints Regarding Violations

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Administrator. He shall record properly such complaint, immediately investigate, and take action thereon as provided by this ordinance.

#### Section 12-3 Procedures Upon Discovering Violations

1. If the Zoning Administrator finds that any of the provision of this ordinance is being violated, he shall serve written notice to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the Zoning Administrator's discretion.
2. The final written notice (and the initial written notice may be the final notice) shall state what action the Zoning Administrator intends to take if the violation is not corrected and shall advise that the Zoning Administrator's decision or order may be appealed to the Board of Adjustment in accordance with Section 10-3.
3. In cases where delay would seriously threaten the effective enforcement of this ordinance or pose a danger to the public health, safety or welfare, the Zoning Administrator may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in Section 12-4.

#### Section 12-4 Penalties and Remedies for Violation.

1. The owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent or any other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this ordinance may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.
2. Violations of the provisions of this ordinance or failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with grants of variances or special use or conditional use permits, shall constitute a misdemeanor, punishable by a fine of up to five hundred (\$500.00) or a maximum of thirty (30) days imprisonment as provided in Section 14-4 of the General Statutes of North Carolina.

3. Any act constituting a violation of the provisions of this ordinance or a failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with grants of variances or special use or conditional use permits, shall also subject the offender to a civil penalty of one hundred (\$100.00) for each day the violation continues. If the offender fails to pay this penalty within ten (10) days after being cited for a violation, the penalty may be recovered by the town in a civil action in the nature of a debt. A civil penalty may not be appealed to the Board of Adjustment if the offender was sent a final notice of violation and did not take an appeal to the Board of Adjustment within the prescribed time.
4. This ordinance may also be enforced by any appropriate equitable remedy.
5. Each day that any violation continues after notification by the Zoning Administrator that such violation exists shall be considered a separate offense for the purposes of the penalties and remedies specified in this section.
6. Any one, all or combination of the foregoing penalties and remedies may be used to enforce this ordinance.

#### Section 12-5 Compliance with State Guidelines for Areas of Environmental Concern

Prior to the issuance of any initial building permit, zoning amendment, or conditional use permit, the Zoning Administrator and local AEC Permit Officer shall determine whether the proposed use or structure is located within an area of environmental concern. This determination shall result from both an on-site investigation and a review of the official AEC overlay map. If the proposed use or structure complies with development standards of the State Guidelines for Areas of Environmental Concern prior to the issuing of any zoning permits (a sample AEC Consistency Statement is included as Appendix B).

#### Section 12-6 SEPARABILITY Clause

Should any section or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

#### Section 12-7 Effective Date

This ordinance shall take effect and be in force from and after its adoption by the Town Commissioners of the Town of Hertford, North Carolina, this 19th day of May 1980.

## ARTICLE XIII

### LANDSCAPE REGULATIONS

#### 13-1.1 Intent and Scope

This article is intended to establish minimum standards for the design of landscapes for uses other than single family and two-family residential so as to improve the community aesthetically, economically and environmentally. Landscaping controls soil erosion reduces the hazards of flooding, stabilize the ground water tables, screen noise, dust, glare, and preserves, protect and enhance the natural environment.

#### 13-1.2 Application of Regulations

These guidelines apply to all new development except the single or two-family residential development. Existing development shall not be required to comply with landscaping regulations. However, all new development as well as expansion of existing uses shall be subject to the provisions of this Article.

#### 13-1.3 Definitions

- A. Caliper. A standard trunk diameter measurement for nursery grown trees taken 6 inches above the ground for up to and including four-inch caliper size, and twelve inches above the ground for larger sizes.
- B. Deciduous. Those plants that annually lose their leaves.
- C. Evergreen. Those plants that retain foliage throughout the year.
- D. Planting Area. The area prepared to accommodate the planting of trees, shrubs, and groundcover.
- E. Planting Yard. The landscaping (buffers and screens) between land uses to minimize inherent incompatibilities. The greater the incompatibility the more intense the planting yard. For example, an intense planting yard is needed between a factory and a single family home while a less intense, or not one at all, would be required between a factory and a convenience store. There are three categories of planting yards:
  - 1) Type A Planting Yard (broken screen). A low density planting strip composed of intermittent visual obstructions. This broken screen is intended to create the impression of a separation of spaces without necessarily eliminating visual contact between the spaces. It may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation.

- 2) Type B Planting Yard (semi opaque). A medium density screen and buffer intended to partially block visual contact between uses and to create a strong impression of the separation of spaces.
  - 3) Type C Planting Yard (opaque). A high density screen and buffer intended to exclude completely all visual contact between land uses and create a strong impression of spatial separation.
- F. Shrub. An upright plant that is planted for ornamental or screening purposes. (Small = under 5 feet in height; medium = 5-10 ft in height; and large = 10-20 feet in height.)
- G. Street Tree. A tree planted along the street behind the right-of-way.
- H. Street Yard. A planting area parallel to a public street designed to provide continuity of vegetation along the right-of-way and to soften the impact of development by providing a pleasing view from the road.
- I. Tree, Ornamental. A small to medium tree, growing 15 feet to 40 feet in height at maturity that is planted for aesthetic purposes such as colorful flowers, interesting bark, or fall foliage.
- J. Tree, Shade. A large tree growing to over 40 feet in height at maturity, usually deciduous, that is planted to provide canopy cover shade.

#### Section 13-2 PLANTING YARDS

Planting yards are used to lessen the inherent incompatibilities between certain land uses allowed within the zoning districts. They consist of buffers, horizontal distances between uses, which provide functional separation and screens, vertical objects providing visual separation. The standards presented within this section are designed to provide visual and functional separation between uses in order to:

- 1) reduce potential nuisances, such as glare, dirt, noise, unsightly views and other adverse impacts;
- 2) safeguard property values and preserve the character and integrity of the community; and
- 3) protect the health, safety and welfare of the public.

## Section 13-2.1 Determination of Buffers and Screens

- A. Buffer and Screens. Requirements are based on proposed and adjacent land uses, not proposed or existing zoning districts adjacent to the land use. To simplify the process of assigning buffer and screening standards to particular land uses the proposed and adjacent land uses have been grouped in the following manner.
- 1) Agriculture (AG). This group includes all bona fide farm operations.
  - 2) Single-Family Residential (SFR). This group includes one-family and two family residential development in all zoning districts within the planning jurisdiction.
  - 3) Multi-family Residential (MFR). This group includes multi-family residential development within the R-6 and R-8 Districts.
  - 4) Light Commercial (LC). This group includes all commercial uses, which are currently allowed in the downtown commercial (C1), the office/institutional (O/I), the neighborhood commercial (C3), the light commercial (C4), and commercial riverfront (C5) zoning districts.
  - 5) Heavy Commercial (HC). This group includes all commercial uses, which are currently allowed in the Commercial, General (C2) Zoning District.
  - 6) Manufacturing (M). This group includes all industrial uses which are currently allowed in the manufacturing zoning districts and other uses which require outdoor storage, have high trip generation rates, or have the potential for nuisance to adjacent properties due to noise, light and glare, or typical hours of operation. The following list of specific uses identified shall have the same buffers and screens as are required for industrial uses:
    - a) Auto service stations
    - b) Auto towing facilities with storage areas;
    - c) Convenience stores with gas pumps; and,
    - d) Restaurants
- B. Determining Buffers and Screens. To determine the type of buffer and screen needed, identify the “use group” listed in Subsection (A) above, for the proposed project and all adjacent properties, excluding properties located across a public right-of-way. Then use the following table to identify the buffer and screen type required. The number refers to the buffer required and the letter to the screen. If the block is blank, there is no landscaping required.

## Summary of Buffer & Screening Requirements

USE PROPOSED	Use of Adjacent Property					
	AG	SFR	MFR	LC	HC	M
SFR						
MFR	2-A	2-B		3-C	3-C	3-C
LC	2-A	2-B	2-B			
HC	2-B	3-C	3-C			
M	4-B	4-C	4-C			

- A. Specifications. The following tables list the specifications for required buffers and screens indicated in subsection (B) above. The buffer area listed below includes any required setbacks.

### Buffer Areas

1	10 Feet
2	20 Feet
3	30 Feet
4	40 Feet

### Screens (Minimum Plant Material per 100 Linear Feet)

	Shade Trees	Ornamental Trees	Shrubs
A	0	2	18
B	2	3	17
C	3	5	25
D	4	10	33

### Section 13-2.2 Additional Requirements

- A. Fractional Calculations. Fractional planting requirement calculations shall be rounded to the next highest whole number.
- B. Existing Plant Material. Existing plant material within the required screen may be included in the computation of the required plantings with approval of the planning board.
- C. Fence or Wall Option. An opaque fence or wall may be used in lieu of not more than 50 percent of the required evergreen screen planting with the approval of the planning board and providing the following conditions are met, where applicable.
- 1) Fence Height for Industrial Zoning. The minimum required fence height shall be 8 feet above ground level when the proposed project zoning type is classified as industrial;

- 2) Fence Height for Zoning Types Except Industrial. The minimum required fence height shall be 6 feet above ground level when the proposed project zoning type is classified as any zoning type except those classified as industrial;
- 3) Vegetation Planted on Exterior Sides. Where a fence or wall is used as part of the required screening, all required vegetation shall be planted on the exterior side of the fence or wall;
- 4) Remaining Vegetation Distribution. Where a fence is used in lieu of vegetation, the remaining percentage of vegetation to be used in conjunction with the fence or wall shall be evenly distributed along the length of the fence.

#### Section 13-2.3 Buffer Location

Buffers shall be located on the outer perimeter of a lot or parcel, extending to the lot or parcel boundary line, with the following exceptions.

- 1) Portion of Site Proposed for Development. If only a portion of a site is proposed for development, the required buffer and/or screen may be located at the limit of the construction perimeter with approval of the planning board;
- 2) Topographic Irregularities Where topographic irregularities require a different location to meet the intent of this section, the location of the buffers and screens may be varied with approval of the planning board; and
- 3) Rights-of- Way and Streets. Buffers or screens shall not be located on any portion of an existing, dedicated or proposed right-of-way or a private street.

#### Section 13-2.4 Dimensions of Plant Materials

- A. Types of Trees. Shade trees planted in buffers 30 feet in width or less may be either medium (25 feet to 35 feet) or large varieties (35 feet or greater), however; at least one-half of the required trees shall be large variety. Shade trees in buffers of greater than 30 feet in width shall be large variety trees.
- B. Height of Trees. All shade or ornamental trees (either deciduous or evergreen) used for screening must be a minimum of 6 feet in height at installation and shall be at least two inches in diameter measured one inch above ground level.

- C. Modification to Height Requirements. All ornamental trees shall be a minimum of 6 feet in height at time of planting unless combined with an approved earthen berm and shall be not less than 10 feet in height at maturity.
- D. Height of Shrubs. All shrubs shall be a minimum of 18 inches in height at installation and shall attain a minimum height of 36 inches 3 years after installation.

#### Section 13-2.5 Spacing of Plant Materials

- A. Spacing of Shade Trees. All shade trees shall be installed with tree trunks spaced a minimum distance of 30 feet apart and a maximum distance of 60 feet apart.
- B. Spacing of Ornamental Trees. All ornamental trees shall be distributed evenly along the length of the buffer and shall be staggered where quantities permit. They shall be installed with tree trunks spaced a minimum of 7 feet apart and a maximum of 15 feet from other ornamental trees and from any required shade tree.
- C. Distribution of Shrubs. All shrubs shall be distributed evenly along the length of the buffer and shall be staggered where quantities permit.

#### Section 13-2.6 Multiple Use of Buffers

- A. Setbacks. Buffers may be used to satisfy minimum setback requirements.
- B. Multi-Purpose Uses. Buffers may be used for the following additional purposes:
  - 1) passive recreation, provided no plant material is eliminated, total width of the buffers is maintained and all other requirements of this ordinance are met; and
  - 2) installation of underground utilities, provided the location and use of the utility lines do not interfere with the required screen plantings.
- C. Prohibited Uses. Active play areas, stables, swimming pools, tennis courts or other similar active recreation uses and storage or parking facilities shall not be allowed in a planting yard.

#### Section 13-3 STREET YARD LANDSCAPING

- A. Definition and Purpose. A street yard consist of a planting area parallel to a public street designed to provide continuity of vegetation along the right-of-way and to soften the impact of development by providing a pleasing view from the road.

- B. Width and Length. A street yard, with a minimum eight feet width, exclusive of access drives, shall be planted adjacent to the public right-of-way. The strip's total length shall be equal to the total length of the property line adjacent to the public right-of-way.
- C. Tree Standards. Street trees shall be planted according to the following requirements:
  - 1) One shade tree / 35 linear feet or one ornamental tree / 25 linear feet, except in the case of conflict with utility lines. These trees shall be generally equally distributed along the street frontage, but they are not required to be at absolute equal intervals. This will allow for some flexibility in design while discouraging long intervals without trees.
  - 2) Shrubbery may be planted in clusters where trees are not practical; however, the requirements for shade and ornamental trees shall still have to be met.
- D. Limited Other Uses. No more than 20% of the street yard may be used for walkways or signs.
- E. Prohibited Uses. Parking, merchandise display and off-street loading are prohibited in the street yard.
- F. Clear Sight Triangle. No tree or shrub shall be planted within the sight triangle (the unobstructed area at the intersection of two streets) without the approval of the planning board.

#### Section 13-4 PARKING LOT LANDSCAPING

- A. Application. All new parking lots which contains 10 or more spaces shall comply with this section. If an existing one is expanded by at least 10 spaces it shall comply with landscaping requirements.
- B. Separate requirements. If a parking lot is expanded or developed, then street yard, planting yard and parking lot requirements shall be applicable.
- C. Ratio between trees and spaces. In parking lots with 10 or more spaces, trees shall be planted at a rate of one shade tree or two ornamental trees for every 10 spaces or fraction thereof.
- D. Trees within 60 ft radius of parking space. Required trees shall be located anywhere within or adjacent to parking lots in tree islands, medians, at the end of parking bays, traffic delineators, or between rows or parking spaces; provided no parking space is located more than 60 feet from a parking lot tree.

- E. Planting areas. The planting areas prepared to accommodate trees, shrubs, and ground cover shall provide a minimum of 81 square feet and a minimum depth of 18 inches. Planting areas shall have a minimum dimension in any one direction of 9 feet. All planting areas shall have adequate drainage and mulching.
- F. Incentives. Any parking lot containing 20 or more parking spaces may reduce the number of required parking spaces by as much as 10% if 50% of the reduced area is used for parking lot landscaping, with no area less than the minimum required parking lot planting area. This bonus landscaping shall apply to industrial, commercial, and office/institutional districts only.
- G. No Credit for Street and Planting Yards. Street and planting yard landscaping requirements shall not be used to meet the landscaping requirements for parking lots. However, parking lot required trees may be planted in the planting strip if all other requirements of the landscape standards are met.

#### Section 13-5 SCREENING LOADING AND SERVICE AREAS

- A. Purpose. Loading and service areas shall be screened from public view from adjacent property and public rights-of-way.
  - 1) Loading and service areas include but are not limited to storage areas, loading docks, dumpsters, etc.
- B. Alternative methods of Screening. Screening shall be accomplished by one of the following methods:
  - 1) Large Evergreen Shrubs:
    - a) Ratio: one shrub/6 feet.
    - b) Minimum Height: 30 inches at planting and attain a minimum height of 6 feet at maturity.
    - c) Minimum planting area width: 5 feet apart.
  - 2) Opaque fence or Wall:
    - a) Minimum height: 6 ft in height
    - b) Maximum height: 8 ft in height

- c) be presented as part of the site plan approval. The side of the fence or wall facing the affected property owner shall be finished, or better appearing side.
  - d) Final authority: The planning board reserves the right to deny any materials, which would create a maintenance problem to the detriment of adjacent property owners.
- 3) Earth Berm:
  - a) Minimum height: 6 feet.
  - b) Coverage: grass, shrubs or trees. Other surface treatment shall be subject to the approval of the planning board.
  - c) Combination:

A combination of the above such that an effective screen to a minimum height of 6 feet is obtained. Small evergreen shrubs may be substituted for larger shrubs when planted on berms in excess of 2 feet in height. Smaller shrubs shall have a minimum height of 18 inches at initial planting and shall attain a minimum height of 4 feet at maturity.

#### Section 13-6 EXISTING TREES.

Existing trees may be used to satisfy all or part of the required tree plantings if there are existing trees within the property or adjacent public right-of-ways, which are to be saved as part of the development of the property. Provisions for insuring the livability of the trees to be saved must be demonstrated by the owner.

- A. Adequate Planting Area. The planting area required for each existing tree to be saved shall equal the area on the property that is within a circle whose center is the trunk of the tree and whose radius in feet is equal to the trunk's diameter in inches. However, no radius shall be less than two and one-half (2-1/2) feet.
- B. Adequate Protection of Trees. During and after construction the developer shall provide adequate protection of trees as provided for in Section 13-7 of this ordinance.

#### Section 13-7 PROTECTION OF PLANTING AREAS

- A. Permanent Protection: Planting areas shall be protected from damage by vehicular traffic with barrier including but not limited to curbs, wheel stops, walls or fences. These measure shall be maintained for protection of the planting areas for as long as the planting areas are required by this Article.
- B. Temporary protection: During construction adequate protection measures shall be provided for all planting areas of existing trees to be saved under the requirements of this ordinance to insure the exclusion of construction activity and storage of materials around them. Trash and debris shall not be buried in planting areas of either existing or proposed trees required by this ordinance.

#### Section 13-8 PLAN TO BE SUBMITTED

A plan of the proposed landscaping area at a scale of 1" = 50' or larger shall be prepared and submitted for review and approval. The plan shall be labeled "Landscape Plan" and shall include the following

- 1) All proposed structures, drives, walks, parking areas and other features pertinent to the location and planting of trees;
- 2) All existing structures and site features to remain which are pertinent to the location and planting of trees;
- 3) All existing and proposed, above or below ground utility lines;
- 4) All proposed trees required by this ordinance and all existing trees proposed to be saved under the requirements of this ordinance. Proposed trees shall be identified by genus, species and installation size. Existing trees to saved shall be identified by genus, species, size and general condition;
- 5) The required planting areas for all trees including the planting strip along public right-of-ways. Critical dimensions for these areas shall be noted;
- 6) Permanent and temporary protection measures; and
- 7) Guying and staking of trees in accordance with accepted practices in the landscape industry.

#### Section 13-9 TREE REPLACEMENT

Owner(s) and their agent(s) heirs, or assigns shall be responsible for the installation, preservation and maintenance of all planting and physical features required to satisfy the conditions of this section. Any dead or missing vegetation shall be replaced (with like or similar plants) within one calendar year.

#### Section 13-10 AMORTIZATION OF NON-CONFORMING PROPERTIES

These regulations shall not apply to any existing development in the Hertford Planning Area. However, if any parking lot is expanded by at least 10 spaces, the new section shall comply with the landscaping requirements for parking lots.

#### Section 13-11 MODIFICATIONS

Where unusual circumstances exist, the planning board may recommend and the Hertford Board of Commissioners authorizes a modification from the requirements of this ordinance provided that the overall objectives of this ordinance are met.

#### Section 13-12 INSPECTION OF SITES

- A. If, through inspection, it is determined that a person has failed to comply with the provisions of this ordinance, a notice to comply shall be served upon the person by registered mail from the Town of Hertford. The notice shall set forth that which will be necessary to comply with the ordinance.
- B. The Town shall have the power to conduct such investigations as it may reasonably deem necessary to carry out its duties as prescribed in this article, and for this purpose may enter at reasonable times upon any property, public or private, for the purpose of inspecting the sites subject to the provisions of this ordinance. Submission of a site plan shall allow for entry or access to any authorized representative or agent of the Town of Hertford. The notice shall set forth that which will be necessary to comply with the ordinance.
- C. The Town of Hertford shall have the power to conduct such investigations as it may reasonably deem necessary to carry out its duties as prescribed in this article, and for this purpose may enter at reasonable times upon any property, public or private, for the purpose of inspecting the sites subject to the provisions of this ordinance. Submission of a site plan shall allow for entry or access to any authorized representative or agent of the Town who requests entry for the purpose of inspection. No person shall obstruct, hamper, or interfere which such representative while in the process of carrying out his official duties

### Section 13-13 EMERGENCIES

In case of emergencies such as windstorms, ice storms, fire, or other disasters, the requirements of this ordinance may be waived by the Town Manager or his designee during the emergency period so that the requirements of this ordinance would in no way hamper private or public work to restore order in the Town. This shall not be interpreted to be license to circumvent the intent of this article.

### SECTION 13-14 FENCING AND SCREENING OF STORM WATER DETENTION/RETENTION PONDS

The purpose of this ordinance is to define the fencing and landscape screening requirements for all permanent Storm water Detention/Retention Ponds located within the jurisdiction of the Town of Hertford. This ordinance shall apply to both wet and dry Storm water Detention/Retention Ponds.

#### A) Definitions:

- 1) Dry Detention/Retention Pond: Shall mean a storm water management facility with a min 1' depth, max 6' depth; generally dry but may contain water at all times of heavy or extended rain; usually dry within 12 hours of last rain but may take several days to become dry, for example, after a hurricane or large thunderstorm.
- 2) Wet Detention/Retention Pond: Shall mean a storm water management facility with a min 3' depth, max 6' depth; generally contains water at all times.
- 3) Facility: Shall mean a storm water management facility and shall include all land, materials, and appurtenances used in the construction and the operation of said facility. Facilities include, but are not necessarily limited to, retention ponds, detention ponds, open and closed systems, etc.

B) Fencing Requirements: The facility shall be fenced around the entire perimeter to prevent unauthorized entry. The fencing shall be chain link fencing with a lockable entry gate. The fence height shall be 6 ft. The lockable entry gate shall be a minimum of 4 ft in width and located such that the placement does not interfere with the screening and the gate visibility is minimized to adjacent property and public rights-of-way.

C) Screening Requirements: Landscape screening shall be required to reduce the visual impact on adjacent property and public rights-of-way. The landscape screening shall consist of evergreen plantings and be part of an approved landscape plan. Landscape screening shall be required on all sides where the adjacent use is Residential, a public or private parking lot, or a public right-of-way. The plantings shall be in a planting bed on the outside of and adjacent to the required fencing. Planting beds shall have a minimum width of four (4) feet and shall be mulched with sufficient mulching material to prevent the growth of unwanted weeds and plants. Plantings shall have a minimum height of 30 inches at planting and attain a minimum height of 6 feet at maturity. The landscape screening shall contain sufficient plant materials and plant placement such that no more than one-fourth ( 1/4) of the surface of the fence is visible, within three (3) years after planting.

D) Protection and Maintenance Requirements:

- 1) Fencing and landscape screening adjacent to public or private parking lots or public rights-of-way shall be protected from vehicular traffic with a barrier such as, but not limited to, curbs, wheel stops, or steel posts.
- 2) Planted and retained living material, required to meet the provisions of this section, shall be maintained by the owner of the property on which the material is located. The owner shall replace any planted material, which becomes damaged, diseased, or dies, within sixty (60) days of the occurrence of such condition. If, in the opinion of the Zoning Administrator, there are extenuating conditions that will not permit the timely replacement of the vegetation (e.g., too hot or too cool for successful replanting) this requirement may be administratively waived until a time at which the replanting would be safe.
- 3) Fencing shall be maintained, cleaned, and repaired by the owner of the property on which the fence is located. Any fencing or traffic barriers, which become damaged or deteriorates shall be repaired or replaced by the owner within fifteen (15) days of the occurrence of such condition.
- 4) Fencing and landscape screening required by this ordinance shall be kept free of litter and advertising.

E) Existing Storm Water Facilities:

- F) Existing permanent Storm water Detention/Retention Ponds within the jurisdiction of the Town of Hertford shall be brought into compliance with requirements of this ordinance within one (1) year from the date of passage of this ordinance.